



ENVIRONMENTAL ASSESSMENT BOARD

VOLUME: 186

DATE: Wednesday, March 28th, 1990

BEFORE: A. KOVEN, Chairman

E. MARTEL, Member



FOR HEARING UPDATES CALL (TOLL-FREE): 1-800-387-8810

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HEARING ON THE PROPOSAL BY THE MINISTRY OF NATURAL
RESOURCES FOR A CLASS ENVIRONMENTAL ASSESSMENT FOR
TIMBER MANAGEMENT ON CROWN LANDS IN ONTARIO

IN THE MATTER of the Environmental
Assessment Act, R.S.O. 1980, c.140;

- and -

IN THE MATTER of the Class Environmental
Assessment for Timber Management on Crown
Lands in Ontario;

- and -

IN THE MATTER OF a Notice by the
Honourable Jim Bradley, Minister of the
Environment, requiring the Environmental
Assessment Board to hold a hearing with
respect to a Class Environmental
Assessment (No. NR-AA-30) of an
undertaking by the Ministry of Natural
Resources for the activity of timber
management on Crown Lands in Ontario.

Hearing held at the Offices of the
Environmental Assessment Board,
2300 Yonge Street, Suite 1201, Toronto,
Ontario, on Wednesday, March 28th,
1990, commencing at 8:30 a.m.

VOLUME 186

BEFORE:

MRS. ANNE KOVEN
MR. ELIE MARTEL

Chairman
Member



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1061	List of NAN communities prepared on behalf of Nishnawbe-Aski Nation planners.	32581
1062	Excerpt from document entitled: 1986 Census, Aboriginal Peoples' Output Program, Community Profile, Series No. 1.	32595
1063	One-page summary of Indian population throughout Ontario prepared by Mr. Watson.	32597
1064	Two-page fax from Ontario Native Affairs Directorate headed: Indian Forestry Development Program dted March 27, 1990.	32608
1065	Document headed: Guidelines for the Preparation of an Environmental Impact Statement for the Beaufort Sea Hydrocarbon Production Proposal headed: Beaufort Sea Environmental Assessment Panel, February, 1982.	32630
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1067	MNR Interrogatory Nos. 2 and 4, MOE Interrogatory No. 14 for OFIA/OLMA Panel 2.	32642
1068	Ministry of the Environment Interrogatory Nos. 3-7, 10, 12-21.	32692

1 ---Upon commencing at 8:30 a.m.

2 MADAM CHAIR: Good morning. Please be
3 seated.

4 Ms. Kleer?

5 MS. KLEER: Good morning, Madam Chair.

6 MADAM CHAIR: Good morning.

7 CAM N. WATSON,
8 MICHAEL ROSS, Resumed

9 CROSS-EXAMINATION BY MS. KLEER:

10 Q. This morning I will be focussing on
11 Mr. Watson's evidence and most of my cross will be
12 directed to you.

13 Now, during the course of my cross I
14 intend to refer to the data that you have on your
15 Appendix C for NAN communities, and what I would like
16 to do is to look to first establish which NAN
17 communities are on that chart and, for purposes of
18 doing that, I am going to refer to an exhibit that was
19 introduced earlier on, Exhibit 664, which I have copies
20 of here.

21 MR. FREIDIN: I am wondering whether we
22 should be starting without counsel for the OFIA/OLMA.

23 MADAM CHAIR: Oh, I am sorry, I didn't
24 notice that Mr. Cosman wasn't here.

25 MR. FREIDIN: I just noticed myself as I

1 looked up.

2 MADAM CHAIR: You are right, we should
3 probably wait a minute.

4 Do you have other exhibits to distribute,
5 Ms. Kleer?

6 MS. KLEER: I will be referring to others
7 in the course, but I will introduce them as I come to
8 them.

9 MADAM CHAIR: All right.

10 ---Discussion off the record

11 MS. KLEER: Q. Okay. As I was saying, I
12 am going to refer to Exhibit 664 in which there is a
13 list of the NAN communities in the area of the
14 undertaking. If you turn to the last page of that
15 exhibit I would just like to -- perhaps you can look at
16 the Appendix C and this will help.

17 Can you confirm for the Board that the
18 following NAN communities you had sufficient data for
19 in order to include them in your chart.

20 The first one is Long Lac 77. I believe that is in --
21 sorry, Mattagami which is the first one in Category 2
22 of NAN communities.

23 A. I have the Mattagami Band and, I am
24 sorry -- yes, Mattagami. Different spelling, but...

25 Q. Okay. Now, the next one is Long Lac

1 77, which should be --

2 A. I have Long Lake 77.

3 Q. It's the same.

4 A. Same thing.

5 Q. The next one is Constance Lake Band
6 and that should be in Category 3?

7 A. Yes.

8 Q. And the next is Matachewan and that
9 would also be I believe in Category 3 -- sorry, pardon
10 me, it may be in Category 4. I don't have my chart
11 pulled out. Yes, it's in category 4. I think you have
12 passed it by. I think it's dotted...

13 A. Yes, Matachewan 72.

14 Q. Yes, and then finally Duck Lake? It
15 may also be -- it shows up at the bottom of Category 4,
16 close to the bottom of Category 4 as a reserve.

17 MADAM CHAIR: Ms. Kleer, is that listed
18 in Exhibit 664?

19 MS. KLEER: Yes. I was just going to
20 confirm that Duck Lake is also known as Chapleau
21 Ojibway Band and that is the last one on page 9 of
22 Exhibit 664.

23 MR. WATSON: Yes.

24 MS. KLEER: Q. All right. Now, there
25 are -- that constitutes five NAN communities, Mattagami

1 Long Lace 77, Constance Lake, Matachewan and Duck Lake.

2 Now, there are also --

3 MR. WATSON: A. We have Aroland.

4 Q. No, I am going to get to that
5 actually.

6 A. Okay.

7 Q. Let's get to that now. The Aroland
8 83, I have referred back to the Aboriginal Peoples
9 Output Program '86 Census. There are two Arolands and
10 perhaps you can confirm this for the Board.

11 There is an Aroland 83 and then there is
12 also Aroland Band which is an Indian settlement and not
13 a reserve.

14 A. Well, I am looking at the Indian
15 Register Population, 1988, published by Indian and
16 Northern Affairs and it has one Aroland. So I am not
17 familiar with the second Aroland.

18 Q. All right. Unfortunately I thought
19 you were familiar with this, so I have not reproduced a
20 copy of this and I will do so for the Board.

21 This is part of the Aboriginal Peoples
22 Output Program, Community Profile, Series No. 1 in
23 which they list all the bands and communities, and
24 perhaps I will show this to you, sir. Can you confirm
25 for the Board --

1 MR. COSMAN: I wonder if counsel has a
2 copy for counsel.

3 MS. KLEER: I will reproduce a copy.

4 MR. COSMAN: It's hard to follow the
5 cross-examination.

6 MADAM CHAIR: Ms. Devaul could make
7 copies right away.

8 MS. KLEER: Should we do that now?

9 MADAM CHAIR: Yes. Ms. Kleer, can we
10 have the name of the document again?

11 MS. KLEER: It's called the Aboriginal
12 Peoples Output Program, Community Profile, Series 1 and
13 it's part of -- or one of the subsets of the 1986
14 Census documents.

15 MADAM CHAIR: So it's a Stat Can
16 publication?

17 MS. KLEER: Yes.

18 Q. Perhaps while we are waiting for
19 those copies we can just go through and confirm that of
20 the other nine NAN communities which we have not gone
21 through, you do not have any data for?

22 MR. WATSON: A. Well, Madam Chairman, at
23 least two of the other communities are in the far north
24 and of course would not be in Appendix C for that
25 reason. They are north of the area of the undertaking,

1 they are noted right here on the map as being north of
2 the area of the undertaking.

3 Q. Could you refer to which ones?

4 A. Well, the Osnaburgh Band and the
5 Slate Falls Band. Osnaburgh is shown here as north of
6 the boundary and Slate Falls similarly is over here,
7 outside of the area of the undertaking and there may be
8 others. I just picked out those two right now.

9 Q. Well, I am sorry, but the evidence
10 that we have before the Board at this point is that
11 these are the NAN communities in the current area of
12 the undertaking, and perhaps the map is inaccurate,
13 perhaps we need to reconfirm that these communities are
14 in fact within the area of the undertaking.

15 A. I would think so, in that it
16 certainly wouldn't be my evidence that they are within
17 the area of the undertaking. They are not according to
18 this map and I don't think this map is -- this map is a
19 fundamental map -- this is a Statistics Canada 1986
20 map, being the key to the Census Subdivision. So I
21 guess anything can be an error, but if there is
22 something to look forward to, I would think it's this
23 particular map.

24 Q. We will have to go back and check
25 which ones are and are not within area of the

1 undertaking because, as you know, before the Board the
2 evidence to date has been that this list constitutes
3 those bands which are in the area of the undertaking.

4 MR. COSMAN: Madam Chair, I don't know
5 that there has been evidence yet before the Board on
6 that at all. We haven't yet heard from my friend, Ms.
7 Kleer's clients and there may be some documents that
8 have been put in cross-examination, but in terms of
9 direct evidence we haven't heard anything other than
10 from the MNR and now from the industry.

11 MS. KLEER: Well, the direct evidence of
12 the MNR certainly was that these are the NAN
13 communities in the current area of the undertaking.

14 MR. COSMAN: All right.

15 MADAM CHAIR: Could you confirm that in
16 writing for us, Ms. Kleer?

17 MS. KLEER: Yes, I will do so. Shall I
18 just refer, Madam Chair, to the two ones that were in
19 question and to Mr. Watson; namely, Osnaburgh Band and
20 Slate Falls?

21 MADAM CHAIR: Why don't you continue
22 through the list and see if we have more discrepancies.

23 MS. KLEER: Right.

24 MR. WATSON: Well, my problem, Madam
25 Chairman, is the names of the bands. I yesterday was

1 comparing the document that I spoke of, Indian Register
2 Population published by Indian and Northern Affairs
3 with the -- it's a 1988 publication -- I am sorry, 1989
4 publication with this Stat Can 1986 map and it's clear
5 that there are differences in the names used of the
6 bands, for some of the bands.

7 So that I see names here that I can't
8 find on the map at all, New Post and Flying Post and
9 Chapleau Cree. I don't know that they are even in
10 here. So I am having a little bit of difficulty, you
11 know, where these bands are, take New Post for example.

12 MS. KLEER: Q. Well, why don't we just
13 go individually through the list and see which ones we
14 can find on the map.

15 MR. WATSON: A. All right.

16 Q. Okay. The first one, you say
17 Osnaburgh Band in your opinion, according to this map,
18 does not fall within area of the undertaking; is that
19 correct?

20 A. Right, it appears to abut to the
21 north in this area here. (indicating)

22 Q. Just confirm for me, is that an MNR
23 map in terms of the lines that were created, or did you
24 draw the lines onto that map yourself?

25 A. I drew the line. Here's the MNR map.

1 Yeah, this map -- there is the MNR line here, Madam
2 Chair, and here we have Osnaburgh House and -- well, I
3 believe this is an accurate representation of this and
4 Osnaburgh House is within Osnaburgh Reserve shown here.
5 (indicating)

6 Q. And are you saying then that on the
7 MNR map as you see it --

8 A. It doesn't show reserves.

9 Unfortunately, it doesn't show -- it doesn't show the
10 same data -- community data as the Stat Can base map
11 does, so that I have got Rap Rapids. This map doesn't
12 show Rap Rapids, so...

13 Q. All right. Well then, what we will
14 obviously have to do is we will go to the MNR map since
15 that is the area of the undertaking, and perhaps we
16 will have to refer back to another map, to a census
17 Canada map which lists the communities or shows the
18 communities.

19 MR. FREIDIN: I am just wondering...

20 MADAM CHAIR: Excuse me, Ms. Kleer. Are
21 you saying you still hold the position that the
22 Osnaburgh Band is within the area of the undertaking?

23 MS. KLEER: Well, I think it has to be
24 confirmed.

25 MADAM CHAIR: I think we are going to

1 have to get Mr. Freidin to provide some confirmation as
2 well.

3 MR. FREIDIN: Yes, I was just going to
4 ask if Exhibit 664, is that an exhibit that we put in
5 either in direct or in response to an undertaking, Ms.
6 Kleer?

7 MS. KLEER: It was an answer to an
8 interrogatory on Panel 13.

9 MR. FREIDIN: So Panel 13 interrogatory
10 by NAN?

11 MS. KLEER: Yes.

12 MR. FREIDIN: And the answer..?

13 MS. KLEER: The answer gave a list of MNR
14 communities.

15 MR. FREIDIN: Native communities.

16 MS. KLEER: Sorry, native communities,
17 NAN communities to their best information, to MNR's
18 best information were within the area of the
19 undertaking.

20 Now, that list was reviewed with Donna
21 Palowski and she made some additions. She has agreed
22 to provide some further clarification if the list is
23 incomplete. And then following that, Ms. Palowski
24 provided a list of NAN communities in the current area
25 of the undertaking which was appended to Exhibit 664.

1 MR. FREIDIN: All right. And is there
2 any indication that there was agreement by MNR that the
3 additional list provided by Ms. Palowski were in fact
4 NAN communities within the area of the undertaking?

5 MS. KLEER: No, there is no indication on
6 the exhibit itself.

7 MR. FREIDIN: All right. And the
8 communities that we are now concerned about as to
9 whether they are in or out, do they fall within the
10 original list or on Ms. Palowski's list?

11 MS. KLEER: Osnaburgh Band falls within
12 the original MNR list.

13 MR. FREIDIN: Okay.

14 MS. KLEER: And the second, Slate Falls
15 Band, also falls within the original MNR list.

16 MR. FREIDIN: Okay.

17 MADAM CHAIR: Could you take care of
18 that, Mr. Freidin--

19 MR. FREIDIN: Sure.

20 MADAM CHAIR: --and check with your
21 people and confirm which communities are within the
22 area of the undertaking?

23 MS. KLEER: Now, perhaps this should be
24 introduced as the next exhibit, Madam Chair.

25 MS. BLASTORAH: Could we have a title for

1 that, please?

2 MADAM CHAIR: Yes. Now, is this the
3 first exhibit of the day, Ms. Kleer?

4 MS. KLEER: Yes.

5 MADAM CHAIR: Or did you want the
6 Aboriginal Peoples Output Program --

7 MS. KLEER: There is an excerpt from that
8 document.

9 MADAM CHAIR: Excerpt from that. That is
10 Exhibit 1061.

11 ---EXHIBIT NO. 1061: List of NAN communities prepared
12 on behalf of Nishnawbe-Aski
 Nation planners..

13 MS. BLASTORAH: And could we have the
14 title again, please?

15 MS. KLEER: 1986 Census. Aboriginal
16 Peoples Output Program, Community Profile, Series 1.

17 MR. WATSON: Madam Chair, may I ask who
18 prepared this?

19 MADAM CHAIR: I think it was Stat Can;
20 isn't it?

21 MS. KLEER: It's prepared by Statistics
22 Canada.

23 MR. WATSON: Yes.

24 MS. KLEER: All right. Then let's just
25 confirm on the point with relationship to Aroland Band.

1 Q. Can you turn to the last page of that
2 exhibit and at the very bottom of that page there is a
3 reference to the Aroland Band in the left column
4 entitled: Band's Name, and then under the second
5 column: Census Subdivision Name, it is referred to as
6 the Aroland Indian settlement; is that correct?

7 MR. WATSON: A. Yes.

8 Q. Now, if you go back to page 3 of this
9 exhibit, near the centre of that page there is a census
10 subdivision name in the second column referred to as
11 Aroland 83; whereas the band's name is White Sand Band;
12 is that correct?

13 A. Yes.

14 Q. So would you confirm that the Aroland
15 83 data that you have in Category 1 in Appendix C does
16 not refer to the Aroland Band but refers to the White
17 Sand Band?

18 A. Well, the data I have is for Aroland
19 83 and according to what you have given me, that refers
20 to the White Sand Band. The Aroland Indian settlement,
21 I don't know how that relates to the first Aroland,
22 whether it's...

23 Q. But clearly they are two separate
24 communities?

25 A. Well, I don't know. It's not clear

1 to me, but it may be.

2 Q. Well, they are clearly two different
3 census subdivisions.

4 MADAM CHAIR: Excuse me, Ms. Kleer. On
5 the last page, the Aroland Indian settlement--

6 MS. KLEER: Yes.

7 MADAM CHAIR: --it's excluded from what
8 package?

9 MS. KLEER: It's excluded from the census
10 data because they didn't have sufficient -- they didn't
11 census this Indian settlement. They censused, however,
12 Aroland 83. That is what the third column exclusion
13 refers to.

14 MADAM CHAIR: Is it excluded from the
15 census because it wasn't sampled, or is it excluded
16 because there was a problem in defining the community?

17 MS. KLEER: I would have to refer to this
18 document. The only reason I am putting this forward is
19 to clarify for the Board that the Aroland 83 referred
20 to there, to the best of our information, taken from
21 the census, does not refer to a NAN community but
22 refers to the White Sand Band which, in NAN's opinion,
23 does not constitute a NAN community; they are two
24 separate communities and we will be bringing forward
25 evidence to clarify that, but I want to, for the

1 Board's sake, to understand which community was which.

2 Q. Okay. Going then back to Exhibit 664
3 to the list of NAN communities, can you confirm for the
4 Board that there was not -- or there was virtually no
5 information for Savant Lake communities, Savant Lake
6 Band?

7 A. Savant Lake, yes, we show in Appendix
8 C in Category 5 where there was no information
9 whatsoever.

10 Q. All right. And then for the New
11 Slate Falls Band, that is--

12 A. New Slate Falls.

13 Q. --referred to as New Slate Falls in
14 the information at page 11 of Exhibit 664 which you
15 have in front of you.

16 MNR referred to it as the Slate Falls
17 Band, it was renamed as the New Slate Falls Band.

18 A. Oh, I am sorry, are we on page 9 or
19 page 11?

20 Q. I was referring to page 11 at first
21 but the name of that band has been changed from Slate
22 Falls Band to New Slate Falls Band.

23 A. I see. Okay.

24 Q. At any rate, do you have any
25 information on the Slate Falls Band in Appendix C?

1 A. No, I don't see Slate Falls on
2 Appendix C.

3 Q. And the next band, Aroland Band. We
4 have talked about that already.

5 A. Yes.

6 Q. The New Post Band. Now, perhaps you
7 can restate what it was that you said earlier about the
8 New Post Band?

9 A. Oh, and I am sorry, with Slate Falls
10 of course I wouldn't find Slate Falls here for the
11 reason I gave earlier, it's in the far north in my
12 submission.

13 Slate Falls is shown here. (indicating)
14 It's over top of that particular lake.

15 Q. It certainly is very close to the
16 line; is that correct?

17 A. Close, but clearly to the north.

18 MADAM CHAIR: Ms. Kleer and Mr. Freidin,
19 could you handle this New Slate Falls Band in the same
20 way as the Osnaburgh Band in terms of confirming
21 whether or not it's inside the area of the undertaking.

22 MR. FREIDIN: Slate Falls?

23 MADAM CHAIR: New Slate Falls Band.

24 MR. FREIDIN: Is the New Slate Falls Band
25 within the area of the undertaking? Yes, we will

1 indicated the MNR's understanding of that.

2 MS. KLEER: Q. And then for the New Post
3 Band, let's go back to the New Post Band.

4 MR. WATSON: A. Yes.

5 Q. Do you have any data on the New Post
6 Band, NAN community?

7 A. I guess all I can do is go through
8 the list each time.

9 Q. Well, perhaps if we can speed this
10 up. I will give you several names at once and see if
11 we can do it that way. The only purpose is just to see
12 which community we do and do not have data on. I think
13 it's important.

14 MR. FREIDIN: And, Ms. Kleer, you know
15 very well it will be necessary for us to sit down with
16 you because you know there has been some discussion in
17 other forums as to what the definition of what a NAN
18 community is. We will want to make sure we understand
19 what you are defining as a NAN community so we answer
20 your enquiry accurately.

21 MS. KLEER: Yes, we can do that.

22 MR. FREIDIN: Okay.

23 MS. KLEER: Q. So let's go through three
24 communities at once; New Post Band, Abitibi 70 and
25 Brunswick House Band. Abitibi is also known as what

1 Wahooshig, W-a-h-o-o-s-h-i-g.

2 A. I will try to retain that. I don't
3 see those bands now.

4 Q. Okay. Now, my friend has pointed out
5 to me that it may be that these do not appear because
6 they weren't ever included as a census subdivision. So
7 perhaps what we should also do...

8 MR. COSMAN: That is, Madam Chair, they
9 are not in Exhibit 1061.

10 MS. KLEER: Yes. Perhaps we could have
11 an undertaking to speed things up, just to determine
12 two parts: First of all, whether or not the list of
13 NAN communities as shown in Exhibit 664, whether or not
14 there is data in your Appendix C for any of those
15 communities, first of all.

16 MR. WATSON: Sorry, which page of 664?

17 MS. KLEER: Page 11 which is the updated
18 list.

19 MR. WATSON: Page 11. Okay.

20 MS. KLEER: And then the second part
21 would be to refer to this new exhibit, Exhibit 1061,
22 and confirm which of those communities were included as
23 a census subdivision for the purposes of the 1986
24 census?

25 MR. WATSON: Which of the page 11, 664

1 communities would also appear in 1061?

2 MS. KLEER: Yes.

3 MR. COSMAN: I believe we can make that
4 undertaking; can we not, Mr. Watson?

5 MR. WATSON: Yes.

6 MR. WATSON: With a caveat, Madam Chair,
7 that I made relative to the names. If there is -- I am
8 assuming consistency of the name and I have reason to
9 believe that that is not the case.

10 MADAM CHAIR: Well, Ms. Kleer has
11 obviously gone over Appendix C carefully.

12 MS. KLEER: Yes.

13 MADAM CHAIR: In your opinion there are
14 only five of these 13 communities --

15 MS. KLEER: Out of the 14 communities.

16 MADAM CHAIR: --out of the 14 communities
17 that are on that list, and did you see any possibility
18 that there was a problem with the identity of the
19 communities, being named differently on that list?

20 MS. KLEER: Not with the names, however,
21 the point was made by my friend that they may not have
22 been included in the census at all; however, they are
23 NAN communities.

24 So at any rate, in my going through the
25 list I discovered that there were only five NAN

1 communities in Appendix C out of the 14 NAN communities
2 which we had listed as being NAN communities within the
3 area of the undertaking.

4 MR. COSMAN: That's assuming they are not
5 there under a different name.

6 MS. KLEER: That's right.

7 MADAM CHAIR: But didn't you just say,
8 Ms. Kleer, you are sure that they are not on Appendix C
9 under different names, these 14 communities?

10 MS. KLEER: No, I didn't say that,
11 because I am simply relying upon this list and my
12 planners have also gone through it. We don't see any
13 other names, but I can't say for certain.

14 MADAM CHAIR: Mr. Watson may have a
15 problem because he obviously won't know in some
16 situations.

17 MS. KLEER: I appreciate that, but in our
18 opinion there are no other NAN communities on that
19 list.

20 MS. KLEER: Q. All right, let's get to
21 more general questions here and see if we can move
22 along.

23 Mr. Watson, when you look at Appendix C
24 would you confirm that there are a large number of data
25 gaps for various indicators?

1 MR. WATSON: A. You are speaking of
2 relative to the Indian communities?

3 Q. No, I am speaking just generally at
4 this point.

5 A. Generally, no, there are not large
6 gaps.

7 Q. Well, if you look in Category 4--

8 A. Yes.

9 Q. --for a lot of the reserves, would
10 you agree that there was no data?

11 A. Relative to the reserves. That is
12 what I asked, Madam Chair, if the question related to
13 the reserves. The answer is yes if it relates to the
14 reserves.

15 Q. All right.

16 A. And if I may, we contacted Statistics
17 Canada in order to try to fill those gaps and we spoke
18 to the social survey methods division and they
19 indicated that in 1986 the number of reserves could not
20 be enumerated, many reserves, because they refused to
21 participate in the survey, claiming that the federal
22 government did not have jurisdiction and where that
23 occurred Statistics Canada estimated population and
24 household counts for unenumerated reserves, used this
25 information at the provincial level and took other

1 steps.

2 So that you will find most of the
3 reserves are in Category 4, and you can see from the
4 board that there are a large number of gaps for that
5 reason, but they have got the reserve there, they have
6 got an estimate of the population of households, but
7 they have no other information because the reserves
8 involved refused to provide it.

9 Q. Well, you have answered my next
10 question. For those communities for which you do have
11 data, for the smaller communities, would you agree with
12 me that there are several important sources of error
13 affecting the accuracy of the data and -- perhaps I can
14 just go through the list and list them all.

15 Are you familiar with coverage errors in
16 terms of missing people or double counting?

17 A. Coverage errors relate to under
18 coverage through missed dwellings or the omission of
19 household members, also over coverage through double
20 counting. I think those are general notes relative to
21 the quality of the data.

22 I guess no count of this nature is
23 perfect. Statistics Canada in my understanding comes
24 as close to it as any enumerator but they are admitting
25 that it's not perfect, right.

1 Q. Now, there are also things known as
2 response errors; is that correct?

3 A. Yes.

4 Q. Can you explain what those are?

5 A. Non-response to specific questions
6 non-response bias.

7 Q. Not non-response, I am referring to
8 response.

9 A. Response errors. Well inaccurate
10 information provided. I mean, they can only work with
11 what they are given.

12 Q. And if someone were to ask a native
13 person a question, is there a possibility in your mind
14 that they might give an erroneous response because they
15 didn't understand the question correctly; is that
16 possible?

17 A. Certainly possible, yes.

18 Q. And then there are also processing
19 errors; is that correct?

20 A. I guess there could be input errors,
21 yes.

22 Q. Now, you focused on group totals and
23 averages because of the small size of NAN communities;
24 is that correct?

25 A. Group totals, you are speaking of

1 category totals?

2 Q. When you did your analysis in the
3 end--

4 A. Yes.

5 Q. --and drew your conclusion, would you
6 say that you would have felt confident drawing
7 conclusions based upon small numbers of communities
8 given the possibility that in the small communities the
9 degree of error is higher?

10 A. Well, I am just trying to think. I
11 am not trying -- I am trying to think of the
12 circumstance on which I would want to take a small
13 number of communities. I had a rationale for taking
14 these particular groups and these are large groupings
15 and I guess they do reduce the likelihood of a
16 significant error, yes.

17 Q. But within a community, and the
18 smaller the community the higher the degree of risk of
19 error; is that fair to say?

20 A. Well, if you have a very small
21 community perhaps one with -- here's one with a
22 population 14 and you have a couple of errors, a couple
23 of submissions that are in error, you are going to have
24 a 14 per cent error factor; whereas if you had the same
25 two in Thunder Bay it's negligible.

1 Q. Okay. Are you less confident at all
2 in your data because of the higher potential for error
3 due to the prevalence of small communities in what you
4 would have called the north?

5 A. I am trying to separate your comments
6 on small communities, madam Chair, from the Indian
7 reserve data versus the balance of the data.

8 The Indian reserve data clearly is badly
9 flawed, there is no question about it, the information
10 isn't there, and that is something that I think the
11 department recognizes and is endeavouring to deal with,
12 but the data that I have for the other communities, no.
13 I have no reason to believe that there is a problem
14 with it.

15 Q. All right. Are you at all familiar
16 with the estimates of the incompletely enumerated
17 populations on Indian reserves and settlements that are
18 not shown in the census data?

19 Perhaps I can assist you. As part of the
20 Aboriginal Peoples Output Program that I have referred
21 to earlier -- (handed)

22 MR. MARTEL: Do you have another one for
23 the record?

24 MS. KLEER: Certainly. (handed)

25 MR. MARTEL: Thank you.

1 MADAM CHAIR: Exhibit 1062.

2 ---EXHIBIT NO. 1062: Excerpt from document entitled:
3 1986 Census, Aboriginal Peoples'
4 Output Program, Community
5 Profile, Series No. 1.

6 MS. KLEER: In Exhibit 1062, Appendix 1,
7 (xxii) which is approximately the fifth page of this
8 exhibit, there is a reference there to the total
9 numbers of population in Ontario for incompletely
10 enumerated Indian reserves and Indian settlements.

11 MR. WATSON: A. Yes.

12 Q. And that's an estimate; is that
13 correct?

14 A. Yes.

15 Q. So can you confirm for the Board that
16 in Ontario there was an estimate of 11,821 population
17 for incompletely enumerated Indian reserves and
18 settlements?

19 A. Yes.

20 Q. And we have no data on that in terms
21 of any of the indicators you have referred to in
22 Appendix C; is that true?

23 A. Well, it says incompletely
24 enumerated. I don't know what the outcome of the
25 partial enumeration was.

26 Q. Well, if you turn to page (xix) of

1 the same exhibit, in the second column, second
2 paragraph -- or sorry, first full paragraph, the
3 paragraph reads:

4 "While it is not possible to estimate the
5 population of each incompletely
6 enumerated reserves, estimates of the
7 missed total population and total
8 occupied dwellings at the provincial
9 level have been made and are shown in
10 Appendix 1", which is what we have just
11 referred to.

12 And then it says:

13 >Note, however, that it was not possible
14 to estimate any characteristics of the
15 missed population even even at the
16 provincial level."

17 A. Yes.

18 Q. And you would confirm that for
19 11,821, an estimate of that number of people, there is
20 no census data other than the estimate of their
21 population?

22 A. I am just trying to understand that
23 first paragraph. They are saying it's not possible to
24 estimate the population, but they have added them in at
25 the provincial level.

1 So I take it from that then they would
2 not even appear here. I mean, we have many that appear
3 here only with the population, but I guess these refer
4 to another set.

5 Q. All right. Would you agree with me
6 that the majority of Indians in Ontario are found in
7 what you would call the north and far north?

8 A. Well, I have -- I made a summary of
9 that, Madam Chair, if that would assist, a one-page
10 summary.

11 MADAM CHAIR: Yes. Why don't you
12 distribute that.

13 MR. WATSON: (handed)

14 MADAM CHAIR: Exhibit 1063.

15 ---EXHIBIT NO. 1063: One-page summary of Indian
16 population throughout Ontario
 prepared by Mr. Watson.

17 MR. WATSON: May I just quickly take you
18 through this, Madam Chair?

19 MADAM CHAIR: Ms. Kleer?

20 MS. KLEER: Certainly. It seems like new
21 evidence to me.

22 MR. WATSON: Well, I thought it dealt
23 directly with your question.

24 MS. KLEER: Q. Okay, except that I was
25 referring to the people who didn't get enumerated and

1 only in fact were estimated. So this table, as I would
2 understand it, would be those people who were actually
3 enumerated?

4 MR. WATSON: A. This table -- it's my
5 belief, Madam Chair, that this table refers to all
6 registered Indians in Ontario. This is not a Stat Can
7 1986 tabulation, this is the Indian Register and I
8 believe it's complete.

9 Q. But it's not census data though.

10 A. No, it's not census data, it's more
11 up to date than census data and it's more complete in
12 my belief in that it deals with something as
13 fundamental as the registration of an Indian, which is
14 something that is obviously carefully tallied.

15 Q. All right.

16 A. And what it does is to separate the
17 Indian population in Ontario into: on reserve, on
18 Crown land and off reserve and total, and then I have
19 divided them -- the populations, I put them in the same
20 four categories on the left that I have used in the
21 report: the far north, north of the area of the
22 undertaking, the north, which is the balance of
23 northern Ontario, the near north, and then the rest of
24 Ontario, the south.

25 And so that you can see on the bottom

1 line toward the right-hand side that the total Indian
2 population in my belief in Ontario registered is
3 101,612. Of those almost 55,000 are on reserves, a
4 little over 2,000 are on Crown land, and 44,500 are off
5 reserve.

6 Now, I am not sure whether your question
7 relates to on reserve or off reserve or both, but if we
8 look in the far north there is a total of 16,000
9 Indians and they, in my understanding, represent the
10 majority of the population of the far north, some 57.6
11 per cent of the total population.

12 If you look at the north, that is the
13 balance of northern Ontario, there is a total of
14 38,000, although only half of those are on reserves,
15 almost precisely half, and they represent five per cent
16 of the population of the north.

17 And then for the near north you have
18 1,100 and they represent half a per cent of the
19 population of the near north. And similarly in the
20 south you have -- well, you have 45,600 and they
21 represent about 6/10 of a per cent of the population.

22 So overall the Indian population is only
23 1.1 per cent of the total, but clearly if you look
24 separately at those four districts they are much more
25 significant the further north you go.

1 Q. All right. Well, can you confirm --
2 would you know for certain whether or not the 11,821
3 are unenumerated or rather estimated persons who
4 appeared in Appendix 1 of Exhibit 1062, the Aboriginal
5 Peoples Output Program, can you confirm whether or not
6 that number is in fact included in this table or not
7 included in this table?

8 A. Well, Madam Chair, I would have to
9 have some information, the name of the bands or the
10 name of something that relates to the eleven thousand
11 eight -- well, I do have I guess from this exhibit.

12 So if we take Appendix 2 of 1062, I take
13 it lists the reserves involved. So that I could look
14 up, for example, Bear Island and Bear Skin Lake and
15 determine whether they, under those particular names,
16 are in the Indian register. Yes, Bear Skin Lake, so
17 that...

18 Q. Okay. Perhaps the best thing would
19 be if - again I can presume from my friend - we should
20 have an undertaking to go through the Appendix 2 list
21 of incompletely enumerated Indian reserves and
22 determine whether or not those communities appear in
23 the Indian register.

24 MR. COSMAN: I don't know how big a job
25 that is, Madam Chair. Perhaps Mr. Watson can assist us

1 whether that can be done and how easily.

2 MR. WATSON: That can be easily done,
3 yes.

4 MR. COSMAN: All right.

5 MR. WATSON: Relatively easily.

6 MS. KLEER: Q. Well, certainly though
7 for those 11,821 people we don't have any data other
8 than an estimate of the population; is that correct?

9 MR. WATSON: A. Well, I am sorry, any
10 data in the sense of what I have here. That I believe
11 to be the case, yes.

12 Q. Now, you say you went to Statistics
13 Canada and you asked them why there were these data
14 gaps. Did you seek any instruction as to whether you
15 should obtain any further information about the Indian
16 settlements or the Indian reserves for which you had no
17 data?

18 A. Seek instruction from my clients--

19 Q. Yes.

20 A. --as to whether I should? We had
21 several discussions laterally about what we ought to be
22 doing there. We determined -- we were directed to do
23 the best we could with the situation in the interest of
24 completeness and we did.

25 We consulted other reports. I have

1 reports with me -- Task Force on Indian Economic
2 Development, an Overview of the Economic Circumstances
3 of Registered Indians in Canada, the register that I
4 spoke of, Indian and Northern Affairs Basic Preliminary
5 Data.

6 we interviewed -- we obtained information
7 on the Industry Forest Development Program and we
8 interviewed various Indian Affairs officials on the
9 north. We spoke to a couple of bands, we spoke to a
10 number of forest industry officials in terms of their
11 programs and so on, but in terms of filling in the gaps
12 on the socio-economic data, we believe that we were
13 facing a blind alley.

14 MR. COSMAN: I can tell my friend that he
15 that we didn't ask Mr. Watson to replicate the efforts
16 of Statistics Canada for lack of resources, among other
17 things.

18 MS. KLEER: Q. You say you spoke to a
19 number of bands. What did you speak to them about, for
20 simply this data?

21 A. No. We were talking to them about --
22 seeking to talk to them about involvement in forestry.
23 This was what laterally.

24 Q. Sorry, laterally meaning...??

25 A. Laterally, post-production of this.

1 Q. Ah. But none of those discussions
2 led to any filling in of the gaps?

3 A. No. The problem, Madam Chair, with
4 doing that is that we have here a database which has --
5 in total we have 400 communities and we have - I forget
6 the number of variables - but about 30 variables, so we
7 have some 12,000 slots here, and we have that
8 information gathered on a consistent and comparable
9 basis.

10 And we were concerned about -- well,
11 first of all, the resources but, secondly, in principle
12 about coming back three or four years after the census,
13 two or three or four years after the census and
14 attempting to fill pieces of information in. I think
15 it would be unsuitable.

16 Q. Can you tell me which band it was
17 that you spoke with?

18 A. I don't think I have those notes
19 here. What we did was we endeavored to talk to two of
20 the bands in the reserves at the upper end of the list
21 that had a high percentage of forestry employment.

22 Q. Which ones were those?

23 A. I didn't do that personally and I
24 don't have the names here.

25 Q. But was it for the purposes -- what

1 purpose was it for if you didn't want to add it in to
2 the...

3 A. Once again, to get a sense of their
4 participation in forest industry activity.

5 Q. Okay.

6 A. It was not to fill in the
7 socio-economic data.

8 Q. All right. Was there any recording
9 of that anywhere in your presentation, your written
10 presentation or your written statement?

11 A. No. Our report -- our report was
12 done earlier, it was submitted in the fall, and this
13 was information that has been done of late, of course
14 in part int response to interrogatories and to date.

15 MADAM CHAIR: Excuse me, Mr. Watson.
16 Would these discussions with the forestry industry and
17 Indian bands concerning native employment, would that
18 have changed the categories that you would put those
19 communities in, given that you might not have any other
20 data on them?

21 MR. WATSON: Well, Madam Chair, we were
22 speaking to those that were at the upper end, so
23 that...

24 MADAM CHAIR: You had already identified
25 them?

1 MR. WATSON: We had already identified
2 them. We weren't talking to some that were shown as
3 zero saying: Do you really have zero employment in the
4 forest industry, is that correct. We just didn't have
5 the resources to do that.

6 As I say, we are talking about something
7 which is five per cent of the total for the north and a
8 half a per cent with the near north. That is not
9 something that we ignored particularly, the Indian
10 population, we just couldn't allocate the amount of
11 time that would be required when we are talking about
12 close to a hundred bands to sort of try to fill the
13 gaps that Stat Can with all its resources has left.

14 MADAM CHAIR: So in fact there may be
15 native communities in Categories 3 and 4 who are
16 significantly more affected by employment in the
17 forestry industry than we can surmize from this chart?

18 MR. WATSON: Yes. I believe that there
19 are zeros shown under the heading of percentage of
20 total employment which is forestry that are not -- that
21 should not be zeros, you know, but I don't have data.

22 MS. KLEER: Q. On what do you base that
23 belief?

24 MR. WATSON: A. Well from -- well, in
25 part, from the information that I have on the Indian

1 Forestry Development Program which has been in
2 existence for 28 years.

3 MADAM CHAIR: Excuse me, what is that
4 program?

5 MR. WATSON: This is a program that
6 Indian and Northern Affairs I guess initiated in 1962
7 as the Indian Logging program. It was a sub-program of
8 the Federal/Provincial Resource Development Agreement
9 operated of course by MNR in Kenora, and that program
10 was to assist Indian bands in negotiating Crown timber
11 licences with forestry companies and the MNR and to
12 prepare woods management and operating plans and to
13 provide forestry expertise and monitoring services and
14 other assistance required by Indian operations on
15 reserves and on Crown forest lands.

16 And then some 15 years later, in the
17 mid-70s, the program emphasis shifted away from
18 harvesting due to a large decline in the number of
19 Indian woods operations and the program began to
20 concentrate more on the forest management and
21 silviculture planning and carrying out silvicultural
22 projects on reserves.

23 And the program is now known as the
24 Indian Forestry Development Program and operates as a
25 forestry management advisory group and, as I mentioned,

1 it's concentrating mainly on management and
2 rehabilitation of the forests on Treaty 3 reserves and
3 it's governed by a native Board of Directors
4 representing three tribal areas in Treaty 3 and it's
5 funded by Indian and Northern Affairs Canada, for five
6 years -- during the past five years.

7 So that it has moved out of the Federal/
8 Provincial Resource Development Agreement and it's
9 operating independently under Indian directorship. In
10 terms of what it has accomplished, it is indicated here
11 that the present level of silviculture activity in
12 Treaty 3 areas is four times what it was 10 years ago
13 as a result of this program and that they go on to make
14 other points.

15 I mean, in fairness, the last point is
16 that in 1988 at the request of Indian and Northern
17 Affairs a program evaluation and operational audit was
18 taken -- or undertaken and although favourable, that
19 report noted that while on reserve activity has
20 generally expanded successfully, there were additional
21 areas in which Treaty 3 bands required more assistance
22 and in which the program could become more involved and
23 the examples given are; off reserve forest resources,
24 the identification and development of viable commercial
25 - forestry activities, increased forestry training and

1 educational opportunities for Treaty 3 bands, and that
2 reinforced the concerns expressed by the member bands.

3 MS. KLEER: Q. Well, just to confirm for
4 the Board, Treaty 3 doesn't include NAN communities; is
5 that correct?

6 MR. WATSON: A. No.

7 Q. So this is only Treaty 3--

8 A. Yes.

9 Q. --Treaty 9 and NAN communities.

10 MS. KLEER: May I ask, I think that
11 should probably be introduced as an exhibit, if we can
12 determine what it is.

13 MADAM CHAIR: Exhibit 1064.

14 MR. WATSON: It is a fax to us yesterday
15 from the Ontario Native affairs Directorate and it's
16 just headed: Indian Forestry Development Program.
17 It's been taken from something, I don't know what.

18 ---EXHIBIT NO. 1064: Two-page fax from Ontario Native
19 Affairs directorate headed:
Indian Forestry Development
Program dated March 27, 1990.

21 MS. KLEER: Q. Is it a letter or is
22 it...

23 MR. WATSON: A. No, it's just a two-page
24 typed sheet with that heading and, as I say, it was
25 faxed.

1 Q. Was it made at your request?

2 A. Yes,, we were seeking information as
3 to, you know, programs and Indian activities in this
4 area in order to prepare ourselves.

5 Q. Let me ask you another question. You
6 have stated that simply because of the existence of
7 this forestry development program you think that that
8 data perhaps is an underestimate of the number of
9 native people involved in forestry.

10 I fail to see how it is that you can draw
11 that conclusion based upon what you said, and
12 perhaps -- or what you have reviewed as being part of
13 the Indian forestry program. It doesn't indicate to me
14 that there is any problem with reporting of census
15 data.

16 MR. WATSON: A. Well, Madam Chair, I
17 guess the reason is that when you have numerous
18 communities here in Category 4 and all of them, from
19 this level down, show zero -- absolutely zero forestry
20 employment -- forest industry employment, and yet
21 coupling that with the very substantial gaps that we
22 have in any other data other than the very basic data
23 of population and forest industry employment, I suspect
24 that - and I am taking my mind back to the documents
25 that we received, the special run that we received that

1 gave us the forest industry employment in the first
2 place - and I think one can interpret the dashes and
3 the zeros differently.

4 All I am saying is, yes, I am suspect
5 given that there was very little data that we would
6 wind up with one hundred per cent accurate information
7 as to the nature of the employment of all members of
8 the bands and nothing else. It just seems to me
9 unlikely.

10 Q. Now, given the large number of data
11 gaps in Category 4 for the native communities, not just
12 NAN communities, you have drawn a lot of conclusions in
13 your report comparing the non-forest communities which
14 you have lumped into Category 4 and then the other
15 communities which you have referred to as Categories 1,
16 2 and 3 communities or forest sector dependent
17 communities.

18 Can you say that your conclusions with
19 respect to the relationship between forestry dependent
20 and non-forestry dependent communities would apply to
21 the native communities for which you have no data?

22 A. Well, the conclusions are those in
23 Chapter 3 that relate to the nature of the Category 1,
24 Category 2, Category 3 communities in terms of factors
25 such as income and wealth and so on.

1 The posity of data on the Indian reserves
2 does not enable me to speak with the same degree of
3 certainty and usefulness on them, no.

4 Q. All right. Okay. Let's go to your
5 report now, if we may. Just as a first point of
6 clarification, when we were going through the Category
7 4 data, perhaps you can refer it to yourself, under
8 Matachewan?

9 A. Yes. Matachewan 72.

10 Q. Matachewan 72. When you go across
11 there it would seem to be the way the columns run that
12 the average value of homes for Matachewan was 36,271.
13 And then it also says in the next column that the
14 number of new homes is -- sorry, the number of homes
15 constructed pre-1946 is 70. However, when you go back
16 towards the left you will see that there are only 13
17 people shown as being in this community in 1986.

18 I have a hard time dealing with that
19 data. It would seem to me that there must be some
20 mistake in the way that the data was put into this
21 table.

22 A. Well, possibly. On the other hand, I
23 guess we have -- I am not sure how Stat Can tallied
24 housing units constructed on reserve land that were
25 non-Indian occupied units. Clearly there is a

1 considerable amount of residential, cottage and other
2 forms of development on reserve lands that is not by
3 Indians, these are lands leased or otherwise made
4 available to non-Indians, and that could account for
5 the fact, but on the other hand it could be an error.

6 Q. Okay. What I am trying to determine,
7 I am just wondering whether or not the columns are
8 simply just misplaced in terms of position, because you
9 see even when you go further along in the columns they
10 have value for the non-residential assessment ratio of
11 83.9 per cent, which does not fit with the nature of
12 NAN communities.

13 A. Our errata I believe corrected that.
14 Yeah. We have, as I said, approximately 12,000 pieces
15 of information. We double checked all the entries, we
16 attempted to cross check the totals and so on. I think
17 if there are errors in here, they are very few in
18 number, but I can't promise that every last number is
19 right.

20 Q. Perhaps then, if you can just as an
21 undertaking - because it's very hard to read the column
22 across - if you could just provide us with the
23 written -- the data for each column just for the
24 Matachewan community.

25 A. Okay.

1 Q. Okay. If we can turn to page 3-17 of
2 your witness statement, Exhibit 1045.

3 MR. COSMAN: Madam Chairman, there was
4 reference to an exhibit. Rather than get lost on this,
5 I think Ms. Kleer wanted it marked. Perhaps Mr. Watson
6 should hand it to the Board.

7 MR. WATSON: (handed)

8 MS. KLEER: Do you have the exhibit
9 number there?

10 MADAM CHAIR: 1064.

11 MS. KLEER: And can we have copies of
12 this?

13 MR. COSMAN: This is Ms. Kleer's exhibit.

14 MADAM CHAIR: We can make copies at the
15 break, if you want.

16 MS. KLEER: All right.

17 MADAM CHAIR: Or if Ms. Devaul comes in
18 someone can ask her to take it.

19 MR. FREIDIN: That is the two-page fax.

20 MADAM CHAIR: Yes.

21 MR. FREIDIN: From ONAD, Ontario Native
22 Affairs Directorate.

23 MR. WATSON: Yes.

24 MR. FREIDIN: Thank you.

25 MADAM CHAIR: It's dated March 27th,

1 1990.

2 MS. KLEER: Q. All right. At page 3-17
3 and at 3.2.5 you make some conclusions about rental
4 housing. You state that:

5 "Home ownership is generally considered
6 to be the most desirable type of housing
7 tenure in terms of fabric and stability
8 of residential communities."

9 Now, that statement would seem to imply a
10 fair bit of judgment as to what is or is not desirable.
11 On what did you make that judgment?

12 MR. WATSON: A. Well, I think that -- I
13 am expressing there a fairly commonly held view
14 relative to communities in terms of municipal planning
15 and that point of view, that if you have to
16 characterize -- if you have to choose between the two,
17 rental tends to connote greater mobility, transient --
18 a more transient nature, perhaps less concern for the
19 unit in that it's owned by others.

20 I mean, as I say, if one has to -- if you
21 are looking at a figure and a figure for ownership and
22 trying to decide when you have heavy ownership in one
23 case and heavy rental in the other case, which you
24 prefer, those are commonly held points of view, I
25 think.

1 Q. All right. To your knowledge are
2 homes generally owned by Indians who live -- perhaps
3 you could just refer to the NAN communities that we
4 were talking about earlier and see whether or not there
5 is any data for those communities with respect to home
6 ownership. The first of those is Mattagami in Category
7 2. I am sorry, Category 2.

8 MR. FREIDIN: The question was on
9 reserves?

10 MS. KLEER: Well, the communities which
11 are listed as reserves.

12 MR. WATSON: All right. So off reserve
13 we wouldn't know whether the Indian people had moved
14 off reserve into a rented or an owned unit, but for the
15 approximately half who are on reserve --

16 MS. KLEER: Q. If you are looking for
17 Mattagami, I believe that is in Category 2, I don't
18 have data and likewise for Long Lac 77 which is just
19 below Mattagami.

20 A. Correct.

21 Q. And then for Constance Lake in
22 Category 3-- sorry, it's Category 3 not Category 2.

23 A. Same thing.

24 Q. And Matachewan, Category 3 -- sorry,
25 Matachewan is in Category 4, my mistake.

1 A. No data.

2 Q. Okay. So generally, at least for
3 these NAN communities, you don't have any housing data;
4 is that correct?

5 A. Correct.

6 Q. So you can't apply that conclusion
7 about home ownership to a native community. Perhaps I
8 can rephrase my question: Is home ownership an
9 appropriate indicator as to the stability of native
10 communities?

11 A. Well, a native community would be
12 subject to a different set of circumstances in terms of
13 the way in which the community is structured and the
14 way in which funding comes from Indian and Northern
15 Affairs, and I am not -- I don't have information that
16 would enable me to look to the precise difference, but
17 one would have to do so before -- but one would have to
18 recognize those differences.

19 Q. My question though is: Given the
20 fact that you don't have any data -- any census data on
21 the homes, can you pose that as an appropriate
22 indicator for a native community?

23 A. Well, I am saying before I would pose
24 it or not pose it I would have to investigate the
25 different circumstances that exist in a reserve setting

1 relative to funding. I mean, there may be -- well, I
2 would just leave it at that.

3 Q. Okay. With respect to new home
4 construction, would you agree with me that new home
5 construction in native communities is directly tied to
6 federal programs which affect the number of new homes
7 that are going to be built in a given year? Do you
8 have any knowledge about that?

9 A. I believe that for much of that that
10 is the case.

11 Q. Now, you have concluded at page 3-18
12 that with respect to new home construction that is an
13 indication of growth, stability and prospects for the
14 municipalities involved.

15 Now, again, can you make those kinds of
16 conclusions with respect to new home construction as
17 applied to native communities given that it seems that
18 there is a direct tie-in between federal programs for
19 funding new home construction and native communities?

20 A. I make the same comment, it applies.
21 Irrespective of who funds it, we are talking about --
22 it's growth, whether it occurs or it doesn't occur; and
23 if it occurs, it brings with it elements of prosperity.
24 If it doesn't occur, prosperity is not there.

25 Q. So you're saying new homes equals

1 increase in prosperity; is that fair to say?

2 A. In a sense. I mean, it's not the
3 - full answer but, yes, it brings with it additional
4 population, it brings with it construction activity,
5 requirement for services, it's an element of stimulus
6 in a community, yes. It doesn't bring with it the
7 population, I guess it reflects the population
8 increases.

9 Q. Now, let's look at page 3-18 dealing
10 with your monthly occupancy costs. Your conclusion was
11 that the increase -- sorry, your conclusion was that
12 the difference in the monthly occupancy cost reflected
13 the higher income experienced in forestry communities
14 as well as greater housing demands and growth forces.

15 Again, if you look at the NAN communities
16 that we have talked about, are you familiar with
17 whether or not they have monthly occupancy costs as a
18 statistic, whether they list them as a statistic?

19 A. Well, I don't think so. I think in
20 going down that list...

21 Q. So the first one is Mattagami and
22 Long Lac in Category 2.

23 A. No.

24 Q. Okay. And then Constance Lake in
25 Category 3?

1 A. No.

2 Q. Okay. So again, can you draw any
3 conclusions with respect to housing demands or growth
4 forces on the basis of lack of data on occupancy costs
5 for NAN communities as you have drawn for the other
6 communities?

7 A. Well, I don't have -- I can't draw a
8 conclusion under 3.2.10, monthly occupancy costs, if I
9 don't have data for the community, but I am not -- I am
10 drawing a conclusion about a category.

11 Q. Well then, my general question is:
12 Does that conclusion apply to NAN communities that fall
13 within that category?

14 A. Well, the conclusion applies
15 generally to the communities within the category.
16 Some -- I believe there is a dispersion of data within
17 the category. I guess if I don't have any data I don't
18 know whether that community would be within the range
19 that exists in that category or not.

20 Q. So you really can't draw any
21 conclusions about that. Your conclusion on Category 4
22 would only have to apply to the communities for which
23 you had data?

24 A. That's right.

25 Q. And again, for non-residential

1 assessment ratios, your exhibit -- your errata sheet
2 the other day listed a number of communities in
3 Category 4 that did not have or were incorrectly shown
4 as having statistics for non-residential assessment
5 ratios. My same question applies: Without any data
6 you can't really draw any conclusions with respect to
7 those communities for which you have no data?

8 A. That's correct.

9 MR. COSMAN: Perhaps Ms. Kleer can assist
10 us by telling the Board whether she intends to call
11 evidence that in Category 4, where there is no data for
12 example, that there is no forestry employment or that
13 there are no housing starts.

14 Just because the data isn't there, I
15 wonder if she is going to be able to supplement what we
16 have.

17 MS. KLEER: Well, we are going to be
18 putting forward data on NAN communities. Whether or
19 not we will -- we will not necessarily give data on
20 each of the indicators that are there, we may give data
21 on quite a number of other indicators.

22 Q. Now, at page 3-19, with respect to
23 the average number of children per family, my review of
24 the data indicates that generally native communities
25 did have data for average number of children.

1 Now, you have concluded -- at page 3-25
2 you drew your final conclusion that one of the
3 desirable residential characteristics was family
4 orientation. You say in the third bullet there, under
5 No. 7:

6 "The family orientation measurement in
7 terms of children to dwelling was
8 comparatively high in forestry
9 communities."

10 Am I to take it that you're stating that
11 high familiar orientation is a desirable residential
12 characteristic?

13 MR. WATSON: A. Yes.

14 Q. On what basis do you make that
15 statement, as an economist?

16 A. Well, this is a socio-economic report
17 most of the information in it is economic, but we
18 didn't want to ignore the social aspect of the
19 consideration, it's very important.

20 Once again, I think it's similar to your
21 question about rental versus ownership. Clearly it's a
22 qualitative matter of value judgment, but I think again
23 I am reflecting a reasonably widely held view that if
24 you look to the stability of a community and health of
25 a community familiar orientation is generally held to

1 be a desirable.

2 Q. Now, just looking at the figures that
3 you have there, Category 1 through Category 4, you have
4 shown the averages on page 3-25.

5 Now, Category 4 has an average of 1.6,
6 Category 3 has an average of 1.3, Category 2 has an
7 average of 1.5 and then Category 1 has an average of
8 1.7. It seems to me that there is no real trend as
9 between Categories 1 through 4.

10 A. I agree. I was looking at that data
11 the other day and actually put a question mark beside
12 it. I think the answer takes us back to 3-13, the
13 reason that it's there in the first place, where you
14 look at -- rather than simply having an average, we
15 look at the distribution by number of children. We
16 have 1.5 or more children per family, 1 to 1.4, and
17 less than 1.

18 And if you start with less than 1, you
19 will see that zero per cent -- zero per cent of the
20 Category 1 and Category 2 communities have less than 1
21 child per family; whereas a small per cent, 7 and 5 in
22 the 3 and 4, are in that area.

23 Then if you look at the large children
24 per family, 1.5 plus, you will see that by far the
25 largest number is in Category 1; however, Category 4 is

1 also -- is higher than 2 and 3, so somewhat inclusive.
2 So it's not as clearcut as a number of the others, but
3 that was part of the thinking about it.

4 Q. Okay. Now, you said to me that this
5 whole report would seem to be a socio-economic report
6 not just an economic report.

7 A. I said it's primarily economic, but
8 we did not want to ignore social considerations, no,
9 and we deal with them in the literature review. We
10 deal with them in aspects of Chapter 7 and we deal with
11 them in a number of the categories that we have
12 considered in Chapter 3, when we are talking about
13 housing and children, one-family households and the
14 like.

15 Q. Would it be fair to say that I see
16 what you have produced here in Appendix C and your
17 interpretation thereof as sort of given community
18 profiles; is that how you would term it?

19 A. No, I wouldn't go that far. It's a
20 little difficult for me to give a community profile of
21 over 400 communities. The report is already a little
22 voluminous. No, a proper community profile might be 20
23 or 30 pages or something of that nature for any
24 particular community. So that it just wasn't possible
25 or I don't even think that useful to try to do that for

1 every community in the area of the undertaking.

2 I thought I had gone - well, I won't say
3 too far - but I had gone as far as I thought one could
4 reasonably go, you know, with the number of communities
5 that we were looking at.

6 Q. Okay. I would like to just take a
7 look at Aroland 83 and the data you have for Aroland
8 83?

9 A. Yes.

10 Q. Now, let's just go across the columns
11 there, okay. For Aroland 83 would you confirm that
12 there is no data on dwellings owned, rented, movable
13 dwellings and average value of those dwellings?

14 A. That's right.

15 Q. And then no data also on average
16 monthly rents, average monthly ownership payment, or
17 residential assessment ratios?

18 A. Right, there is no assessment so that
19 is an N/A.

20 Q. Okay, that's fine. Okay. Now, let's
21 look at unemployment rates. Now, in the unemployment
22 rates for the ages 15-24, the rate of unemployment is
23 77.8 per cent; is that correct?

24 A. Yes.

25 Q. Now, that is at least two times as

1 high as the next highest unemployment rate of 30.8 per
2 cent; is that fair to say?

3 A. Yes.

4 Q. Now, the unemployment rate for 25
5 plus years is 37.5 per cent?

6 A. Yes.

7 Q. And that is three times higher than
8 the next highest unemployment rate of 10.3?

9 A. Yes.

10 Q. Now, unemployment rates are a pretty
11 important indicator of the well-being of the community,
12 would you agree?

13 A. Yes.

14 Q. Given that -- given the fact that you
15 have got a lot of data gaps in terms of housing
16 ownership and things like that, the fact that you have
17 included this community in Category 1 by virtue of the
18 fact that it has a high forestry percentage, would you
19 draw the same conclusion as you have generally drawn
20 with respect to Category 1 and apply those to the
21 Aroland 83 community?

22 A. No, I think quite clearly the Aroland
23 83 community stands out. I mean, as you say, it is in
24 Category 1 for the simple reason that 54.5 per cent of
25 the employed labour force in 1986 was employed in the

1 forest field -- was employed in forestry occupations.

2 So that is why it's in the category, and it enjoyed --
3 well, the population growth is only 24 per cent, but on
4 a percentage basis a substantial amount of growth,

5 But, on the other hand, the unemployment
6 situation is obviously very poor, certainly compared to
7 the municipalities with which it has been put. I don't
8 know how it compares with other Indian reserves and
9 clearly we are talking about a different culture, we
10 are talking about different circumstances and that
11 can't be ignored.

12 Q. All right. Now, going to page 3-24
13 and looking at your conclusions with respect to
14 transfer payments, you state that:

15 "Forestry communities in the north are
16 not as dependent on public funding to
17 support their local economy as were
18 non-forestry communities."

19 And then your second bullet under there
20 deals with the fact that there is --

21 "On a significant scale, the greater the
22 forestry presence in the communities
23 the lower the percentage income earned
24 from government transfer payments by
25 individuals."

1 Now, can I conclude from these statements
2 that what you are saying is that transfer payments are
3 considered to be undesirable, socially speaking?

4 A. No, I don't consider them
5 undesirable, but I think when you are talking -- you
6 are looking at the success of a community, its wealth,
7 its prosperity, I think the extent to which it's
8 achieved a particular position by virtue of having
9 unusual high transfer payments should be noted in the
10 sense that that transfer payment in one sense could be
11 allocated to any community and could elevate its
12 performance in a number of economic areas.

13 So that it's -- I am simply noting that
14 that is input from outside the system, if you will,
15 that should be noted.

16 Q. But it's not necessarily a bad thing?

17 A. There is nothing bad about a transfer
18 payment, otherwise I guess it wouldn't be provided.

19 Q. Now, page 3-20 you have dealt with
20 the question of low income families. Now, again, my
21 review of the data on the NAN communities is that there
22 is no data at all on low income familiar incidence.

23 A. Yes.

24 Q. So again, your general conclusions
25 with respect to Category 1 through 4 wouldn't apply to

1 those communities for which you have no data?

2 A. No, it wouldn't.

3 Q. Now, I would like to deal for a
4 moment with your comments the other day regarding cost
5 of living.

6 Now, you say you called a number of
7 people like realtors and clothiers, et cetera -- those
8 types of occupations, realtors clothiers, et cetera.
9 Are those found in native communities as a general
10 proposition?

11 A. No.

12 Q. Were any native communities contacted
13 when you did your cost of living survey method?

14 A. No, we did not select -- of the 10
15 communities we looked at, we did not select a native
16 community, in part for the reason you just mentioned,
17 in that their purchases would be made in surrounding
18 municipalities in many cases and it would be more a
19 matter of conjecture as to which municipalities.

20 So we simply went to the municipalities
21 themselves, certainly some of those municipalities may
22 well be serving Indian communities in the sense of
23 providing commercial and recreational and other
24 services.

25 Madam Chair, if I just may, I guess the

1 other -- I keep coming back to the on reserve/off
2 reserve. I guess when we are talking about Indian
3 communities we are talking about on reserve, that the
4 very substantial -- the 44,500 Indians who are off
5 reserve I am not sure, Ms. Kleer, whether in your
6 questions any of them are deemed to form Indian
7 communities.

8 Q. Well, I am simply referring to the
9 data that you provided here.

10 A. To those references. Those clearly
11 are to reserves.

12 Q. That's right.

13 A. And, therefore, they only deal with
14 about half of the Indians.

15 Q. Okay. Are you familiar with any of
16 the guidelines for the preparation of environmental
17 impact statements relating to Indian bands which have
18 been put out by environmental assessment panels in the
19 course of federal environmental assessment review
20 programs?

21 A. No.

22 MS. KLEER: Okay. I would like to just
23 introduce two copies of those at this point. (handed)

24 MADAM CHAIR: Exhibit 1065, Guidelines
25 for the Preparation of an Environmental Impact

1 Statement, Beaufort Sea Hydrocarbon Production
2 Proposal, The Beaufort Sea Environmental Assessment
3 Panel, February, 1982.

4 And Exhibit 1066, the Keegivik Uranium
5 Mine Environmental Assessment Panel, Environmental
6 Impact Statement Guidelines and Government Information
7 Requirements, June, 1989.

8 ---EXHIBIT NO. 1065: Document headed: Guidelines for
9 the Preparation of an
Environmental Impact Statement
for the Beaufort Sea Hydrocarbon
Production Proposal headed:
Beaufort Sea Environmental
Assessment Panel, February, 1982.

12 ---EXHIBIT NO. 1066: Document headed: Keegivik Uranium
13 Mine Environmental Assessment
Panel, Environmental Impact
14 Statement Guidelines and
Government Information
Requirements, June, 1989.
15

16 MS. KLEER: Okay. If I might, I would
17 would like to look at Exhibit 1066 before 1065, that is
18 the Keegivik one. I have just reproduced the portion
19 of the guidelines that deal with socio-economic impact.

20 Q. Now, I would like to just run through
21 a few of the things that the Environmental Assessment
22 Panel did wish to receive evidence relating to and just
23 have you confirm that that is in fact what these
24 guidelines refer to.

25 First of all, they want to look at

1 dominant institutional and economic activities in the
2 Keewatin, this is under the Keegivik, okay, that is
3 under 4.3:

4 "I wish to have information on dominant
5 institutional and economic activities in
6 the Keewatin."

7 Is that correct?

8 MR. WATSON: A. Yes.

9 Q. They also asked that there should be
10 an identification of the aspects of the communities
11 most important in defining the character and culture of
12 the community; is that correct? That is the point
13 before that 4.3?

14 A. Yes.

15 Q. Now, if you look at the bottom of
16 that page with 4.3 on it, they also wished to look at
17 questions related to social problems in the local
18 communities; is that correct; things like...

19 A. Yes.

20 Q. Okay.

21 MR. FREIDIN: Where are you reading?

22 MS. KLEER: That is at the bottom of the
23 page headed up 4.3, Assessment of...

24 Q. They also looked at some information
25 about the work circumstances; is that correct, that is

1 4.8? They wanted to have information on that; is that
2 correct?

3 A. I am sorry, you are saying they also
4 looked --

5 Q. Sorry, they wanted to have
6 information on that.

7 A. Well, I am looking at an excerpt that
8 is referring to these matters. I don't really know who
9 is -- how this is being used by whom.

10 Q. Well, these are environmental -- the
11 first page indicates they are the environmental impact
12 statement guidelines and government information
13 requirements prepared. It doesn't say it on the front,
14 however, they were prepared by the Keegivik Uranium
15 Mine Environmental Assessment Panel.

16 These are prepared in order to assist the
17 parties who have to prepare the evidence to put before
18 the Environmental Assessment Panel.

19 A. Madam Chair, would it be possible for
20 me to see the complete copy?

21 MS. KLEER: Certainly.

22 MADAM CHAIR: How large is the document?

23 MS. KLEER: Unfortunately they have no
24 page numbers. I mean, if he could refer to the
25 introduction I think that would assist him in

1 determining what the nature of these guidelines is.

2 MADAM CHAIR: We are about two minutes
3 away from taking a break. Do you want to do that now?

4 MS. KLEER: Sure.

5 MADAM CHAIR: And give Mr. Watson an
6 opportunity to look that over.

7 MS. KLEER: Okay.

8 MADAM CHAIR: We will be back at 10:30.

9 ---Recess taken at 10:08 a.m.

10 ---On resuming at 10:30 a.m.

11 MADAM CHAIR: Please be seated.

12 Okay, Mr. Watson, have you had a chance
13 to review those impact guidelines?

14 MR. WATSON: Yes, I have, Madam Chair. I
15 have a couple of observations, but I am not sure
16 whether I am entitled to make them or not.

17 MS. KLEER: Q. Well, let me just begin
18 and ask you first of all: Were those environmental
19 impact statement guidelines prepared in order to allow
20 the person or persons who were going to put together
21 evidence before the Environmental Assessment Panel to
22 know what types of evidence they should be getting to
23 put before the panel?

24 MR. WATSON: A. Yes.

25 Q. All right. Now, if we look -- let's

1 turn back to the Keegivik one. We have gone through a
2 number of the items that the panel wished to receive
3 evidence on. Now, at the end did the panel also wish
4 to receive evidence relating to renewal resource uses
5 under Section 4.9?

6 A. Yes.

7 Q. All right. And certainly that is
8 nothing that we have seen in the evidence that you have
9 put forward; is that correct, in the course of the
10 evidence you prepared for your panel -- for your
11 statement, rather?

12 A. No.

13 Q. All right. Now, I would like to turn
14 again to the next exhibit, Exhibit 1065, the Beaufort
15 Sea Environmental Impact Statement Guidelines.

16 Now, Appendix C of that set of guidelines
17 lists a number of components to be included in the
18 description of the existing socio-economic environment.

19 A. I am sorry, I am looking at two...

20 Q. The Beaufort Sea Hydrocarbon
21 Production.

22 A. Do I simply have two copies of the
23 same thing.

24 Q. You may have two copies of the same
25 thing.

1 A. Oh.

2 Q. Sorry. Was one of the things which
3 the Environmental Assessment Panel wished to receive
4 evidence on in order to describe the socio-economic
5 environment, things about the social and cultural
6 history of the community?

7 A. Yes.

8 Q. And they also wanted to look at
9 things like land and resource use; is that correct?

10 A. Yes. I have seen the context of the
11 Keegivik and I understand that. Assuming that this
12 1982 document is similar to the Keegivik, then I can
13 answer yes. I am just looking at a couple of pages
14 that are excerpts, I don't really know the context,
15 but...

16 Q. I have provided you a copy, perhaps
17 you haven't had a chance to review it.

18 MR. COSMAN: No, I think you have
19 indicated, Mr. Watson, you provided him a copy of the
20 other document.

21 MR. WATSON: Yeah.

22 MR. COSMAN: But not...

23 MS. KLEER: Well, I did actually, if you
24 look underneath.

25 MR. WATSON: I am sorry, I didn't realize

1 it was there.

2 MR. COSMAN: Oh, I see, two of them.

3 MR. WATSON: Okay. All right.

4 MS. KLEER: Q. Well, perhaps you could
5 just confirm by looking at the introduction. Is this
6 document being prepared -- or was it prepared for the
7 same purpose as was the Keegivik Environmental Impact
8 Statement Guidelines.

9 MR. WATSON: A. Yes. The proponen's are
10 expected to observe the intent but not the letter of
11 the guidelines, yes, as indicated on page 1.

12 Q. All right, now, would you agree with
13 me that the types of information that this
14 Environmental Assessment Panel wished to obtain in
15 relationship to the socio-economic environment is much
16 broader than the types of information that you looked
17 at in your report?

18 A. This is much broader and I have a
19 couple of observations to make on that. I guess page 2
20 of the Beaufort Sea Guidelines goes on to say that it
21 is possible for the guidelines to include matters which
22 in the judgment of the proponents are not relevant or
23 significant to the proposal and the proponent is
24 invited to omit, but to explain the omission and the
25 Board will comment on it.

1 But I think what is more significant is
2 the overall context. If we look at the Keegivik, we
3 are talking clearly about a particular mining project
4 proposal, one project in one location and we are
5 talking about the Keewatin and the - I don't have the
6 exact numbers here - but the population in the Keewatin
7 is probably five or 10,000 people.

8 The largest centre in the Northwest
9 Territories is Yellowknife at 11,000 persons and it is
10 far and away the largest centre. There are several
11 smaller communities with several thousand people and
12 the rest of the Northwest Territories has a couple of
13 hundred people in a large number of settlements.

14 So that we are talking about something
15 that is much more doable in a socio-economic sense. We
16 are talking about looking at a limited number of
17 communities and that -- I would estimate that number is
18 probably -- in the Keewatin, probably in the order of
19 five or 10 communities each, as I say, having a few
20 hundred people in them. Very limited communities,
21 communities on which there is a great deal of data
22 available in that the Government of the Northwest
23 Territories built the communities and owns -- in almost
24 all cases owns the housing units.

25 And so that as I say it's quite a

1 different matter when -- by comparison I think is what
2 we are doing here, where we are looking at a population
3 of close to a million, we are looking at over 400
4 communities in a host of different settings and we are
5 not looking at a project that you can say: Well, we
6 have, you know, "x" workers required of a particular
7 type and we can look to where they are going to come
8 from and where they are going to live and we can trace
9 through specific tangible impacts of something because
10 we have a project and we can define it.

11 Clearly we are talking here about
12 something that is much less defineable and much vaster.

13 Q. My question still stands though: If
14 you were to do a description of the socio-economic
15 environment, would the data that the Environmental
16 Assessment Panel wished it could receive - and whether
17 it did or not we can't say - but would that not give a
18 more complete profile of what the community was like
19 and would it not include -- does this list not include
20 some indicators, a lot of indicators in fact that your
21 data doesn't get at?

22 A. Yes.

23 Q. And would you agree with me -- well,
24 let me go back. I would like to try to understand how
25 it is that you intended to use your indicators as you

1 went through them in Appendix C. Are they being used
2 as indicators of community success, wealth and
3 prosperity? You have used those words a number of
4 times.

5 A. Well, I wanted to have a profile of
6 the communities and the populations involved, I wanted
7 to have some sense of the nature of those communities
8 and, as you say, their wealth or lack of, and to have a
9 sense of how that related to the presence of forestry
10 or lack of. And the purpose was to get a sense of the
11 impact that adding or withdrawing forestry employment
12 might have on this vast area of the undertaking.

13 Q. Do I take it then that you are
14 agreeing that in fact you were using those indicators
15 in the sense to look at community prosperity?

16 A. Community prosperity was one thing or
17 lack of.

18 Q. Okay.

19 A. That is economics, yes.

20 Q. All right. Now, you have admitted
21 that you don't have a lot of data on native community
22 indicators. Are your indicators that you looked at in
23 Appendix C appropriate for indicating success, wealth
24 and prosperity, or whatever you want to call it, of
25 native communities?

1 A. Well, if I had more complete
2 information with those indicators I would have some
3 knowledge, yes. I think you could certainly devise
4 further indicators that would be useful. I am not
5 suggesting these are by any means comprehensive, they
6 clearly aren't.

7 Q. So you would agree with me that the
8 types of information that this Beaufort Sea
9 Environmental Assessment Panel wished to have relating
10 to cultural history, historical background of the
11 communities, community social patterns, community
12 housing types, et cetera, et cetera, would those give
13 you a better sense of the prosperity of a native
14 community?

15 A. Well, you mentioned housing types,
16 and we have given some consideration to housing types.
17 You mentioned community history, I don't know -- I
18 guess if you had the history of 400 communities...

19 Q. No, let's just talk about the NAN
20 communities or the native communities of which there
21 were 64 according to your evidence.

22 A. No, that is not quite right. Native
23 communities would show up on...

24 Q. Sorry, 51 in Category 4 I think.

25 A. I am looking at page 3-13 of my

1 report and -- sorry, 3-12: 54 in Category 4, 3 in
2 Category 3, 7 in Category 2, and 1 in Category 1, 65
3 and then in addition there are I believe 2 in the near
4 north.

5 Q. Okay. So let's just focus then on
6 those communities.

7 A. All right.

8 Q. The question I had is relating to the
9 indicators that you used. Would you not agree with me
10 that these types of indicators that the Beaufort Sea
11 proposal looked at - and I would especially like to
12 look at the question relating to residents' perceptions
13 of and aspirations for community development - would
14 that not give you a much better sense of what community
15 prosperity in a native community was all about?

16 A. Certainly additional information
17 could be gathered that would give further insight into
18 these categories beyond the rather fundamental measures
19 that I have here, yes.

20 MS. KLEER: I have no further questions,
21 Madam Chairman.

22 MADAM CHAIR: Thank you, Ms. Kleer.

23 Ms. Seaborn is next to cross-examine.

24 MR. FREIDIN: I wish that were the case,
25 Madam Chairman, and we may revisit that one day.

MADAM CHAIR: Oh, of course, Mr. Freidin.
I forgot that you were going to cross-examine.

MR. FREIDIN: You forgot I was going to cross-examine or you forgot I was going to cross-examine second last.

If I could just have a moment, I would like to move up to that front table, and I don't know whose material that is on that front table.

---Discussion off the record

MR. FREIDIN: Madam Chair, perhaps I could begin by filing as the next exhibit a copy of three interrogatories for OFIA Panel 2. They will be MNR Question No. 2, No. 4, and Ministry of the Environment Interrogatory No. 14.

MADAM CHAIR: That is Exhibit 1067.

MS. BLASTORAH: (handed)

---EXHIBIT NO. 1067: MNR Interrogatory Nos. 2 and 4,
MOE Interrogatory No. 14 for
OFIA/OLMA Panel 2.

CROSS-EXAMINATION BY MR. FREIDIN:

Q. Mr. Ross, I think most of my questions are for you, although I won't completely ignore you, Mr. Watson.

But I would like to start with you, Mr. Ross, and perhaps just start off by confirming that my understanding of your evidence in some respects is

1 accurate. It's my understanding that it was the view
2 of some of the OFIA/OLMA companies or representatives
3 that you spoke to that changes in MNR policy and
4 practices should be subject to impact analysis, and
5 that meant, be subject to impact analysis before those
6 changes would occur, is that correct as a starting?

7 MR. ROSS: A. That's my understanding as
8 well.

9 Q. Right. And that your evidence was
10 that that impact analysis would look at the efficacy of
11 the change and the economic impact of the change and
12 then a decision could be made based on the results of
13 those considerations?

14 A. Yes, that is my understanding of
15 their view.

16 Q. Now, am I correct, Mr. Ross, that the
17 two case studies that are in your report demonstrate
18 that such an impact analysis can be developed if it's
19 desired or deemed necessary?

20 A. Yes, and perhaps they don't go that
21 far, because really we have been focusing on the
22 economic impact side of that comparison, have not
23 explicitly dealt with the issue of efficacy; in other
24 words: When one makes a change in forest management
25 - policies or practices, does it achieve a desired

1 impact?

2 We looked for some evidence in that
3 regard in the context of the case studies and didn't
4 find really anything that we thought would be useful
5 for the case studies.

6 Q. But the main purpose then of those
7 studies -- or one of the main purposes was to
8 demonstrate that where it was deemed to be desirable or
9 necessary, an economic impact analysis of a proposed
10 change in policy or practice could be developed?

11 A. Yes.

12 Q. And would it be a fair assessment of
13 your evidence that the major point or the major message
14 that you were delivering was not to establish that a
15 specific approach or methodology should be adopted in
16 relation to reserves or anything else, but rather you
17 were attempting to demonstrate that a methodical
18 approach could be developed to assessing the economic
19 impact of certain changes, again, where it would be
20 deemed necessary or appropriate?

21 A. I don't think we are putting forward
22 the approach we have used as the only way to deal with
23 the issue of changes in timber management policies and
24 practices and, in fact, it's clearly not applicable in
25 certain situations in my view, though it raises issues

1 that one would like -- that should be dealt with
2 through some form of analytical technique when dealing
3 with reserves, which is the example that we have worked
4 through.

5 Q. Right. Now, you said that following
6 along from that that the reserve issue was chosen for
7 your analysis because - and I am quoting you - it was
8 amenable to the type of analysis that you wanted to
9 undertake. Is that a correct summary of some of your
10 evidence?

11 A. I don't remember my exact words when
12 you play them back to me like that. What I might say
13 instead is that we could identify a form of analysis
14 that could be applied to the issue of reserves.

15 Q. Right. You could have chosen
16 something else. You said there was a list of things
17 that the members of the two associations referred to,
18 but you chose reserves, and my notes say because it was
19 amenable to the type of analysis you wanted to
20 undertake.

21 But I take it you could have chosen
22 another example but you chose the issue of reserves
23 because it demonstrated what you were really trying to
24 demonstrate in your evidence and; that was, that an
25 economic impact analysis can in fact be done when

1 changes in practices or policies are being considered?

2 A. I would say that's essentially true,
3 although we also chose reserves because it was a
4 subject of some interest to the Board and to the
5 industry.

6 Q. Okay. Now, it is my understanding
7 from your evidence, Mr. Ross, that you were not
8 advocating in your evidence, nor should your evidence
9 be taken as suggesting, that an economic impact
10 analysis should be mandatory for every decision made of
11 management units in relation to the establishment or
12 non-establishment of a reserve?

13 A. I agree with that statement.

14 Q. Right. And again, that you were
15 advocating that an impact analysis, where necessary,
16 can be developed, you were trying to demonstrate that.
17 And would you agree that whether or not an economic
18 impact analysis would be required or appropriate would
19 be a decision which would be left to the resource
20 managers, if we are talking about decisions being made
21 at the field level?

22 A. I am not sure I understand the
23 planning process clearly enough that I have a view as
24 to who ought to be making these decisions. I certainly
25 agree with what I take to be perhaps the thought behind

1 your question; which is, somebody ought to be deciding
2 whether it's worth while doing such an analysis in any
3 particular case, given the costs of doing the analysis
4 and given the potential benefits of doing the analysis.

5 Q. Okay. Are you able to agree with me,
6 Mr. Ross, that if within any particular timber
7 management planning exercise, and by that I mean the
8 planning exercise in which a timber management plan is
9 prepared for a particular unit, are you able to agree
10 with me that within that exercise, that if there was a
11 concern regarding the economic impact of any particular
12 reserve decision, that the present timber management
13 planning process provides the opportunity for the
14 results of an economic impact study to be put on the
15 table for consideration?

16 A. I don't know the answer to that
17 question.

18 Q. All right. Following along in the
19 same vein, Mr. Ross, you at pages 13 to 15 of the
20 Economic Framework document, which is Exhibit 1047 --

21 MR. COSMAN: Pages..?

22 MR. FREIDIN: Pages 13 to 15.

23 Q. You refer to that number of studies
24 which looked at the impact of reserves on various
25 costs, the Puttock Study being the first one that is

1 referred to.

2 MR. ROSS: A. Yes.

3 Q. Now, you commented - and I believe I
4 had your evidence correctly - when you were referring
5 to those studies you said:

6 "In each case they say there is a cost
7 increase. The range of cost varied as
8 did the method of analysis and the level
9 of detail."

10 And I take it that you referenced these
11 studies to basically reinforce the major message that
12 you were giving and; that is, that an economic impact
13 study of this issue has been done in certain quarters,
14 but you were not referring to these reports to advocate
15 that one approach was better or worse than the other?

16 A. I was not referring to the reports in
17 that way. I probably in the course of doing the case
18 studies that we have done have developed some views as
19 to how one might go about doing case studies.

20 Q. But the main purpose of referring to
21 these was, again, to indicate that an economic impact
22 analysis and a methodical approach can be taken to
23 determine economic impact where it's necessary and, in
24 fact, has been done in a couple of cases here?

25 A. Well, yes, I put them in the context

1 of the objectives of the study, which were really to
2 determine whether such analyses could be done and
3 determine whether they were meaningful costs associated
4 with certain types of forest management policies.

5 Q. Right. And your conclusion was in
6 each case, notwithstanding the different methods, that
7 there was a conclusion that there was a cost increase
8 as a result of the establishment of reserves?

9 A. Yes, although clearly the amounts
10 varied considerably among the studies.

11 Q. Right. Okay.

12 A. And perhaps I might extend the
13 comments a little because, for example, the Ketcheson
14 studies are really not dealing with reserves in the
15 sense of exclusions around lakes for example, they are
16 really dealing with strip cutting as a harvesting
17 technique, which I thought was relevant because it is
18 another form of restriction on cutting, if you will,
19 that incurs certain types of costs and frankly because
20 the existing literature on reserves in Ontario was so
21 sparse.

22 Q. Can you turn to page 26, please, of
23 Exhibit 1046 -- 1047, I am sorry. It is the one we are
24 on in the Economic Framework?

25 A. Yes. Page 26, did you say?

1 Q. Yes. Now, I don't think you got a
2 copy of the... .

3 MS. BLASTORAH: Yes.

4 MR. ROSS: Yes.

5 MR. FREIDIN: Q. Oh, you did.

6 MR. ROSS: A. Yes, thank you.

7 Q. I would like to refer your attention
8 to Table 4-2 in the middle of the page and it's
9 referring to differential road costs per cubic metre of
10 harvested softwood, in other words.

11 Now, there was considerable evidence that
12 road costs refers to the cost per cubic metre of wood
13 harvested off of that. You remember there was a fair
14 bit of evidence and discussion about that matter?

15 A. Of my own evidence?

16 Q. Yes. I think it was -- I can't
17 remember if it was in your own evidence or whether it
18 was in cross-examination as to -- some of it was in
19 cross-examination by Ms. Swenarchuk, what you really
20 meant by road costs?

21 A. Yes. As we have meant it here, it's
22 really the cost -- how much of the cost of a cubic
23 metre of softwood harvested from this case study area
24 represents the recovery of road costs that were put in
25 place to access the timber.

1 Q. All right. You weren't talking about
2 the actual cost of the construction of the road, rather
3 you were talking about the amount of cost that could be
4 recovered from harvested softwood which was accessed by
5 the road you had built?

6 A. Yes, which in turn is based on the
7 cost of constructing the road in the first place. In
8 other words, we spend an amount of money to construct
9 the road that accesses a certain amount of timber, and
10 essentially that cost of constructing the road and
11 maintaining it as well have to be recovered through the
12 timber which is harvested and the costs are allocated
13 on a per cubic metre basis.

14 So I think the point I am making is, it's
15 not that construction costs are irrelevant, but rather
16 that this is a way -- we have used the term here, is
17 really what is the embedded road cost per cubic metre
18 of wood harvested.

19 Q. So that if you have a particular road
20 which is a kilometre long and you harvest all the wood
21 along that road, your road costs, as you define them,
22 would be different in that scenario than if, with the
23 same one-kilometre road, instead of being able to
24 harvest all the wood along there you can only harvest
25 half the wood along there, your road costs would be

1 different in those two situations?

2 A. Yes, and they would be per cubic
3 metre of softwood and they would be twice as high in
4 the situation where you can only cut half the wood.

5 Q. And in the case where you could only
6 cut half the wood, although you had to build the same
7 length of road, you would have to finance the cost of
8 constructing that kilometre of road over a longer
9 period of time because you wouldn't really get all of
10 the benefit of harvest off that road until you actually
11 finished harvesting the other 50 per cent?

12 A. Well, yes, assuming a couple of
13 things, I guess. Assuming that you ever got access to
14 the other 50 per cent.

15 Q. Okay.

16 A. And assuming that the road didn't
17 have to be reconstructed in any event depending on how
18 long it was until you came back.

19 Q. Now, the Ministry of the Environment
20 Interrogatory No. 14, which refers to page 27 of the
21 Economic Framework Report, does it speak to the subject
22 we are discussing at the moment?

23 A. In general terms, yes, or to say it a
24 little bit differently, I think the question reflected
25 a misunderstanding of how we had -- of the results of

1 our study, and we attempted to clarify the -- to
2 rectify the misunderstanding through the response to
3 the interrogatory.

4 Q. And does this answer reflect the
5 evidence that you just gave or the answer you just gave
6 to me, or does it provide additional information that
7 perhaps we should ensure we all understand?

8 A. Perhaps I will just re-read it and
9 remind myself what we said.

10 Q. Okay.

11 A. I think basically it reiterates -- at
12 least in part (a) it reiterates what we have just said.

13 Q. Okay. Thank you.

14 A. If I might just sort of summarize
15 what that is in a sentence or two. In this case study
16 the results are that essentially the same road network
17 had to be put in place independent of the reserve
18 scenarios, that as I recounted I think earlier, that
19 that is in part because the topography puts some
20 restrictions on where you can put the roads in the
21 first place.

22 So in that sense a certain amount of road
23 cost had to be put in place almost independent of how
24 much wood was coming off the case study area. So that
25 in various reserve scenarios that make less wood

1 accessible, the cost -- the road cost per cubic metre
2 that was harvested goes up.

3 Q. Okay. I would like to move on and
4 ask you a few questions about the Midway Lumber case
5 study that starts at page 29 of the Economic Framework
6 Paper.

7 And before I ask you some specific
8 questions about the contents of that report and your
9 evidence that you gave in relation to that, I just want
10 to see whether we can agree on a couple of basic
11 points.

12 Can we agree that some sawmillers,
13 especially some smaller operators, are operating close
14 to the financial break-even point?

15 A. I believe that to be true.

16 Q. Can we agree that companies that find
17 themselves in that situation are more sensitive to
18 increased operating costs than companies which are not
19 in that sort of a financial situation. And what I mean
20 by that is, that they are more sensitive in the sense
21 that there would be a greater adverse economic impact
22 on those smaller companies that are close to the line
23 of increased cost than there would be on a large
24 company which was more financially -- in a better
25 financial situation?

1 A. Maybe by -- I might rephrase the
2 question a bit.

3 Q. It was a bit long and I apologize.

4 A. I think -- there are really two
5 issues in my mind; one is profitability and the other
6 is financial strength, or perhaps another way to say
7 that is, ability to withstand a period of losses.

8 I think in a situation in which there is
9 a company which is not making much money or perhaps is
10 losing money at a particular point in time, they are
11 going to be particularly concerned about additional
12 costs imposed on them because at some point a decision
13 has to be made about the viability of the business. In
14 that sense perhaps they are more sensitive, although I
15 would think any good manager is trying to be sensitive
16 to costs that are being added.

17 I think there is the related issue of
18 financial strength and I think typically smaller
19 businesses have less financial strength, or another way
20 of saying that, less financial resources that let them
21 weather periods of adversity, and I think that is
22 probably -- I think Midway probably is on that side of
23 the scale certainly compared to a big integrated pulp
24 and paper company.

25 Q. Okay. Now, during your evidence you

1 said that you did not do any independent financial
2 verification of the Midway Lumber situation, rather you
3 accepted the situation as it was reported to you by
4 company officials; is that correct?

5 A. Are you referring to the comments at
6 the top of page 36?

7 Q. Well, I am not too sure -- let me
8 look back in my notes. I am not specifically referring
9 to that, I am referring to the answer to the very first
10 question that you were asked in direct evidence about
11 Midway Lumber.

12 The question was: You state that the
13 sawmillers in a severe situation has concern regarding
14 the future, and said: Have you done an update on the
15 status of that company, and you answered: We haven't
16 done any independent financial verification but the
17 company representatives say that their situation is
18 severe.

19 So I took it from that that for the
20 purposes of preparing your report in the Economic
21 Framework Document, that you did not do an independent
22 financial verification of Midway Lumber's financial
23 situation.

24 I am not suggesting for a moment that
25 they gave you wrong information, I am just trying to

1 confirm that you didn't do any independent financial
2 verification of what they told you.

3 MR. COSMAN: In the sense of an audit,
4 Mr. Freidin?

5 MR. FREIDIN: Q. In the sense of an
6 audit, I suppose, to determine whether they were in the
7 financial situation that they expressed to you.

8 MR. ROSS: A. I believe, at least in my
9 mind, the answer to that first question that you are
10 quoting my response from was in the context of the
11 comments on the top of page 36.

12 Q. All right.

13 A. In other words, that the company's
14 financial situation is -- or the company's situation is
15 severe. In fact, the way I wrote the paragraph was
16 just repeating their views.

17 Q. Right.

18 A. And representatives have emphasized
19 that the situation is severe. In their view, if they
20 don't get access to more wood on better terms they may
21 be out of business in a year. I was merely reporting
22 comments by the company and I have done no independent
23 verification of the validity of those statements.

24 Q. Thank you. Is one of the reasons
25 that you didn't do an independent verification the fact

1 that you weren't so concerned with the actual numbers
2 or the actual impact in that case, but rather again you
3 were attempting to demonstrate a principle, the
4 principle that the cause/effect linkage exists between
5 reserves and wood costs?

6 A. Well, I was trying to fulfill the
7 objectives of the study, one of which was exactly that,
8 and the other was to determine whether the impacts are
9 meaningful. But I didn't think it mattered -- if I was
10 satisfied that they were meaningful, it didn't matter
11 very much just what they were.

12 Q. Okay. And I take it then that your
13 comment made in your evidence, and I am quoting you:
14 "In our approach we wanted to discuss
15 methodology, but the company developed
16 the numbers", reflects your overall
17 approach to the task that you were given?

18 A. Yes, or to say a little bit
19 differently, we felt if we had agreed the analytical
20 framework with the companies and if we had poked and
21 prodded with them as to why they were making the
22 assumptions they were making, we could fulfill the
23 objectives of our study without actually doing an
24 independent third party verification of their
25 assumptions.

1 Q. Now, in your evidence --

2 MR. COSMAN: Mr. Freidin, are you
3 submitting the assumptions are invalid?

4 MR. FREIDIN: I am not making any comment
5 at all, I am just asking questions and getting answers.

6 MR. COSMAN: All right.

7 MR. FREIDIN: Q. You said, Mr. Ross,
8 that negotiations are ongoing between the company; that
9 is, Midway and the Ministry, and when asked what the
10 impact of the negotiations might be on the data that
11 you have produced in the report, you responded, and I
12 am quoting".

13 "Our results would be different but it
14 would not change the substance of the
15 results."

16 Later on in your evidence in relation to
17 Table 5-1 which is on page 35 you said:

18 "Although the numbers may change as a
19 result of these discussions, Midway are
20 nonetheless facing increasing costs."

21 Can we agree, Mr. Ross, that we really
22 don't know what the specific final numbers may be?
23 Let's take a look at Table 5-1 where we have the
24 percentage increases recorded. Until those discussions
25 are finished, it is impossible to really know what the

1 final numbers will be?

2 MR. ROSS: A. Yes.

3 Q. Do you have a copy of the Superior
4 study which is Exhibit 1035?

5 A. Yes. Perhaps it will take me a
6 minute to dig it out.

7 Q. Okay. Could you turn to page 17 of
8 that document, and perhaps at the same time you could
9 open the Economic Framework Document at page 35 so you
10 have Table 5-1 in front of you as well.

11 A. Yes.

12 MR. FREIDIN: Page 17 of Exhibit 1035,
13 Mr. Martel, is Table 8 entitled: Road Yield, and table
14 5-1 of Exhibit -- of the Economic Framework Document,
15 Exhibit 1047, is found on page 35.

16 Q. And you have both of those documents
17 in front of you, Mr. Ross?

18 MR. ROSS: A. Yes, I do.

19 Q. Now, in Exhibit 1035 at page 17, am I
20 correct that it reports the yield in cubic metres per
21 kilometre of road and road costs per cubic metre of
22 wood?

23 A. Yes.

24 Q. Now, keeping that in mind and looking
25 at Table 5-1 on page 35, can I assume that the road

1 cost per cubic metre of wood which is recorded in Table
2 8 in the Superior study, which is expressed as a
3 percentage change, is roughly equivalent to road cost
4 per thousand board feet as we see it in Table 5-1 in
5 the Midway study which is also expressed as a
6 percentage increase?

7 A. Conceptually they are measuring the
8 similar thing.

9 Q. All right. That is what I was
10 looking for, thank you. But we can agree that there is
11 a substantial difference in the percentage increase
12 attributed to the guideline application in the two
13 studies?

14 A. Yes, and I am not sure I would even
15 say that in Midway it's attributed to the guideline
16 application. I mean, it's attributed to the
17 allocations which they have received and the
18 implications on their costs of those allocations, but
19 the reason I am making that distinction is because in
20 the Superior study - that's a hypothetical study if you
21 will - that's a 'what if' study, where two specific
22 forms of guidelines were taken and hypothetically
23 implemented through a process I described before,
24 trying to cycle in on what a realistic end result would
25 be, and then the costs in those two case were compared.

1 So it is only the application of the two sets of
2 guidelines in the Superior study which result in the
3 costs.

4 In the Midway study we are really looking
5 at a before and after situation: What are the cost
6 implications of the timber allocations that were
7 received in the last five-year plan, what were the
8 implications of the ones that were in the draft plan.
9 That was the basis of the case study.

10 It's Midway's view that, I think what
11 they call moose management concerns are one of the
12 reasons that they are different, but I can't a
13 attribute them specifically to the application of
14 guidelines.

15 Q. But it's my understanding from your
16 evidence that it is at least your understanding from
17 Midway that the primary reason for the allocations
18 being scattered, to use their word, is in fact due to
19 the application of the Guidelines for the Provision of
20 Moose Habitat?

21 A. I am not sure that that is exactly
22 how they might say it, but I think the gist is the
23 same.

24 Q. Now, you said earlier that you didn't
25 know what the final numbers would be for the Midway

1 study after further discussions and negotiations, and I
2 guess that means it could be in the hundreds, it might
3 very well end up being down in the range that we find
4 in the Superior study which is a percentage change of
5 45 to 59 per cent, but we really just don't know until
6 we have the results of those discussions?

7 A. I think it's true that we don't know.
8 There is a difference between the Midway situation and
9 the Superior situation which maybe hasn't been
10 appreciated and; that is, that in Midway's view the saw
11 timber is going to bear most of the additional road
12 cost because the pulpwood is being hauled such a long
13 distance that the contractors won't be able to recover
14 any road cost increases from the pulp mills.

15 In other words, there is kind of a going
16 price for pulpwood. If they are going to negotiate a
17 all-end deal with the contractors: You take the
18 pulpwood one place and bring us the sawlogs, they are
19 going to end up bearing most of the increased road
20 cost. So there is kind of a leveraged or compounding
21 effect.

22 This is certainly how Midway thinks about
23 the situation and how they view the negotiations that
24 they would be facing with the contractors in the event
25 that the higher road costs were in place.

1 So because of that, in what may be fairly
2 unusual circumstances, I think there are reasons that
3 it's unlikely in my view that in Midway's specific case
4 the percentages would get down to the same levels as
5 exist.

6 Q. All right. Now, but notwithstanding
7 we don't know whether the numbers will get down to that
8 level or not, would it be fair to say that what the
9 final percentages might be, assuming that even if they
10 did get reduced down to the percentages that we have in
11 the Superior study, that that wouldn't affect the main
12 message of your evidence, which was to establish that
13 an economic impact analysis can be done, can be
14 developed in circumstances in relation to change in
15 practices or policies and, in this particular case,
16 that you could do it for reserves if in fact it was
17 deemed appropriate?

18 A. It certainly wouldn't change that
19 message, and I believe those magnitudes, the 45 to 59
20 per cent, would also not change the other message, if
21 you will, or the response to our second objective which
22 is that the cost can be meaningful.

23 Q. And would it be fair then to conclude
24 that it is not necessary for the Board to accept the
25 percentages of change or increase in Table 5-1 for your

1 major message to in fact be worthy of acceptance?

2 A. Maybe I could try and answer that
3 question in a slightly different way; which is, there
4 could be quite different numbers in the Table 5-1 in
5 the Midway case study results and the major conclusions
6 of the study would remain valid.

7 Q. So hypothetically if somebody was
8 concerned about the numbers and spent the time to
9 reduce the numbers down to even the numbers in the
10 Superior study, it doesn't affect the validity of your
11 conclusion about the ability to in fact do economic
12 impact analysis when required, or to develop, you know,
13 a methodology in a particular circumstance?

14 A. I guess I wonder what the phrase:
15 Did the work to reduce the results means.

16 Q. Well...

17 A. Maybe you could restate the question.

18 Q. Let me put it this way. Just looking
19 at the Superior study with the numbers, even if you
20 didn't have the Midway study, the Superior study itself
21 demonstrates the point you were trying to make?

22 A. Yes.

23 Q. You made a comment that in the
24 Superior study that the assumptions were more apparent
25 or you gave some evidence along those lines.

1 Do you recall - if I am sorting of
2 misphrasing it please correct me - but you made some
3 comment about the Superior study being more apparent in
4 terms of the assumptions than the Midway study?

5 A. I think I might have said something
6 like, one of the strengths of the Superior study is
7 that all of the assumptions can be tied to other
8 external studies, or except for the basic assumption
9 about how the guidelines would be implemented, and they
10 went to some care to try and cycle that through the MNR
11 so that an outside reviewer of that study could go and
12 really check the validity of all the assumptions.

13 Q. Thank you. Can you turn to page 31.

14 MR. COSMAN: Sorry, page...?

15 MR. FREIDIN: Page 31.

16 MR. ROSS: Of...?

17 MR. FREIDIN: Q. Of your Economic
18 Framework Study?

19 MR. ROSS: A. May I put Superior away?

20 Q. Yes, you can. Okay. Page 31, just a
21 very quick question here. If you refer to the last
22 paragraph there is reference to the fact that Midway
23 could use only 27 per cent of the wood harvested in
24 1988 from the lands allocated to them, last paragraph.

25 A. Yes.

1 Q. And I just wanted to confirm that my
2 understanding is correct, that you were not submitting
3 that there was a wood supply problem that had to be
4 addressed; that wasn't the import of that statement?

5 A. No, that is not the import of that
6 statement.

7 Q. Okay. Mr. Watson, a question for
8 you. During the cross-examination of you by Ms.
9 Swenarchuk she asked you: Your data -- she made a
10 comment, she said: Your data doesn't assist the Board
11 in answering the question as to the extent to which
12 which environmental regulation is necessary in the
13 north. And you went on and indicated that what you had
14 done through your evidence was to give some context so
15 that the Board when it deliberated on measures that
16 will be taken that it look at the cost and the impacts
17 and the uncertainties that may be created as a result
18 of certain decisions, and that was really the value --
19 one of the values of your evidence.

20 Is that a fair summary of a portion of
21 your evidence?

22 MR. WATSON: A. Yes.

23 Q. Now, let us assume, Mr. Watson, that
24 the Environmental Assessment Act requires there to be
25 evidence to describe the social and economic

1 environment as well as the natural environment. Do you
2 believe that your evidence in fact addresses that
3 requirement, that in fact it constitutes evidence of
4 the socio-economic environment?

5 A. Oh, I think so. We have gone to some
6 pains to be comprehensive in that regard and to
7 introduce all factors on which comparable data could be
8 obtained and we have supplemented the use of Stat Can.
9 For example, in the case of the assessment base, we
10 took that from the municipal affairs, MARS System, we
11 looked at other sources.

12 I think we have a databank or a database
13 that is, you know, quite significant and that, yes, we
14 have met that requirement.

15 Q. And from where I sit, Mr. Watson, I
16 think your evidence also addresses a requirement of the
17 Environmental Assessment Act - let's assume that this
18 is a requirement - that the effects on the environment
19 of the undertaking be addressed as well, and the
20 potential effect on that socio-economic environment as
21 a result of changes that might occur within the
22 environment.

23 MADAM CHAIR: Excuse me, Mr. Freidin.
24 Are you saying that the position of the proponent is
25 that you believe the evidence of this party supports

1 your obligations under the Act?

2 MR. FREIDIN: I am saying that it
3 supports -- well, yes, I am saying that it supports not
4 only -- it's our obligation initially, but as you are
5 aware, the evidence constitutes the environmental
6 assessment and even if we called no evidence as to the
7 socio-economic environment, this evidence constitutes
8 that evidence.

9 And I am just trying to address the
10 suggestion and the question from Ms. Swenarchuk that
11 somehow this evidence was not very helpful, that it
12 didn't sort of address what was really the issue before
13 the Board and; that is, whether there should be more
14 regulation.

15 I am suggesting that it is important and
16 essential evidence because it addresses a fundamental
17 requirement of the Act and I wanted to make that
18 abundantly clear through my question.

19 MADAM CHAIR: So you are asking Mr.
20 Watson if his evidence is important, and what is your
21 question?

22 MR. FREIDIN: I am asking him whether it
23 addresses a requirement to address the potential effect
24 on the environment.

25 MADAM CHAIR: Would he know what that

1 requirement is?

2 MR. FREIDIN: I think he should know
3 that. I based the question, assuming that there is a
4 requirement to indicate what effects could occur on the
5 environment, and that means the socio-economic
6 environment, as a result of certain things happening.
7 And we are talking about reduced expenditures on the
8 forest industry because of certain measures being
9 imposed, whether that would be discussion of the
10 potential effects on the socio-economic environment.

11 MR. WATSON: Well, Madam Chair, I think I
12 alluded to the answer to a question of this nature in
13 reply to Ms. Kleer in saying that, if I were to fulfill
14 that objective relative to the uranium mine in the
15 Keewatin I would do one set of things; on the other
16 hand, when we are talking about a class environmental
17 assessment covering most of Ontario's land area and
18 involving possibly a million people, I would do what I
19 have done in order to attempt to fulfill the function.

20 It's obviously much more difficult to do
21 in the instance where you have undefined impacts and
22 what I am calling diffuse impacts, yet to be determined
23 impacts, but that is what I set out to attempt to do
24 and, of course, I think I have done it. I wouldn't
25 have stopped...

1 MR. FREIDIN: Q. Thank you. Now, Mr.
2 Ross, Forests for Tomorrow Interrogatory No. 5 was part
3 of a -- I am not sure whether it was part of Exhibit
4 1057. Do you have that?

5 MR. ROSS: A. Yes, I do.

6 Q. Now, that interrogatory deals with
7 what the definition of inflexible reserves is, and
8 during cross-examination from Ms. Swenarchuk you agreed
9 that the interpretation of inflexible as applied by
10 Abitibi-Price would be as extreme a case as you could
11 get with the guidelines as they presently exist if they
12 were applied as rules. Do you agree that that's a fair
13 summary of your evidence?

14 A. I might quarrel with as extreme a
15 case as you can get, but I agree with the basic thrust
16 of what you are saying.

17 Q. I think I am right, she was trying to
18 put the words worst case scenario, and then she changes
19 it to as extreme a case as you could get, and you
20 agreed, but I think your answer will suffice.

21 Now, the guidelines you were referring
22 to, would those guidelines have included the moose
23 habitat guidelines?

24 A. Yes.

25 Q. Now, I want some clarification and I

1 am going to ask you some questions to attempt to
2 clarify in my own mind what constitutes a reserve for
3 the purpose of that evidence you gave. And if we could
4 start, could you turn to the Abitibi-Price portion of
5 the framework document, page (ii) I guess, which is
6 part of the executive summary.

7 MADAM CHAIR: Which page is that, Mr.
8 Freidin?

9 MR. FREIDIN: It's the third page in,
10 (ii) at the bottom right-hand corner of Exhibit 1047,
11 Scope and Approach is the heading at the top -- almost
12 at the top of the page.

13 Q. Now, under the heading: Scope and
14 Approach No. 4, it says:

15 "The study focuses on one aspect of the
16 undertaking, the establishment of
17 forest reserves which are areas in which
18 harvesting is severely restricted or
19 prohibited."

20 I take it from that sentence that forest
21 reserves for the purposes of this study are areas where
22 cutting or harvesting is prohibited completely, but it
23 would also include areas where it could occur but it
24 would be severely restricted.

25 MR. ROSS: A. Yes, and I think as

1 applied in the case study, it was the judgment of the
2 Abitibi-Price foresters that in -- well, to back up a
3 sentence. I think the way the guidelines operate is
4 that there are times in which certain restricted
5 operations might be possible, but in their view the way
6 to formulate the inflexible reserve scenario is to
7 assume that there would be no operations in those
8 areas.

9 Q. Right, for the inflexible scenario -
10 and I will get into that later - that was the
11 assumption, that there would be no cutting in those
12 areas. But for the current situation, a forest reserve
13 would be an area where there could be cutting although
14 it would be severely restricted according to this
15 definition?

16 A. Yes. The reason I am hesitating is I
17 am distinguishing between the description of the
18 scenario, if you will, and the case that was actually
19 used, because we used an actual operating plan as it
20 had been developed as our existing reserve scenario.

21 Q. We are talking about the
22 Abitibi-Price situation now?

23 A. I am talking about -- the whole
24 discussion has been in the context of the Abitibi-Price
25 case study. I thought you had directed me to that.

1 Q. All right. All right.

2 A. In other words, the timber -- just
3 make sure I have the terminology right. The existing
4 reserve scenario is described in Exhibit 3 in the sense
5 that that is the Abitibi-Price forester's view of how
6 the existing system has been implemented in the recent
7 past.

8 Q. Exhibit 3 being where?

9 A. I am sorry, I should have directed
10 you to it. Exhibit 3 following page 22 of the
11 Framework Report, the Status Quo Application of
12 Guidelines.

13 Q. Right. Okay.

14 A. The calculations themselves were
15 derived by considering the existing operating plan as
16 it has been approved by MNR and then comparing, which
17 has some withdrawals of timber; in other words, some
18 reserves built into it.

19 But the existing plan represents whatever
20 actually evolved in the planning process, may or may
21 not exactly correspondence to the descriptions in
22 Exhibit 3. I am not saying it doesn't, I am just
23 saying the plan is what it is.

24 Q. Right.

25 A. And this is an attempt -- and Exhibit

1 3 is an attempt by the foresters to describe --

2 Q. What happened?

3 A. No, to describe their understanding
4 of the status quo application of guidelines.

5 Q. All right. So if we look then at
6 Exhibit No. 3 - which you say, as you indicate, follows
7 page 22, and go to the second page - and we go to Item
8 No. 8, highways and railways, referring to application
9 of the tourism guidelines, and we go over to the
10 right-hand column, it says harvesting, and it says:

11 "Some public roads have clearcutting
12 permitted to the roadside, others
13 modified cutting."

14 You are saying that you are unaware as to
15 whether modified cutting was in fact conducted in those
16 situations, it may have been but you can't advise
17 whether in fact that was the case?

18 A. I probably have a little additional
19 information which I am just looking for right now. The
20 reason I am looking for additional information is
21 because these are the guidelines. There is then the
22 question of: How did they actually get applied in the
23 case study.

24 And the summary I have here is with
25 respect to the highways guideline a number of exists

1 leave blocks were left in place, the area near the
2 highway was mostly cut-over prior to the current
3 operating plan. So that is the situation in the
4 specific case study area that we studied.

5 Q. All right. Let me just put the
6 question to you hypothetically then. If an area was
7 identified for restricted harvesting, modified
8 harvesting in an area by definition as set out on page
9 (ii) of your report, that area would be a forest
10 reserve?

11 A. I think the answer is yes, although I
12 am not sure whether it has practical consequence in the
13 context of the Abitibi-Price case study area.

14 Q. And when you were talking about
15 reserves actually being established in the case study
16 area, is it fair to assume that it is not limited to
17 reserves which were set around lakes; in other words,
18 they weren't just reserves along shorelines but they
19 would involve reserves established in other areas to
20 protect values other than the aquatic environment?

21 A. Yes.

22 Q. Could you refer back to exhibit --
23 well, actually Exhibit No. 4 which is opposite page 22
24 as well and Exhibit No. 4, as I understand it,
25 describes the scenario if there was an inflexible

1 application of the guidelines; is that correct?

2 A. Yes.

3 Q. Now, I apologize I didn't make copies
4 of Question No. 9 from Forests for Tomorrow, but I
5 don't believe everybody needs a copy.

6 Do you have a copy of it?

7 A. Yes.

8 Q. And you recall a moment ago we were
9 talking about whether you agreed with Ms. Swenarchuk
10 that the guidelines being applied was as severe a case
11 as you could get.

12 If we might look at the Question No. 9.
13 Question No. 9 is in relation to Exhibit No. 4, and the
14 question is:

15 "Some of the constraints on harvesting
16 listed in the chart indicate the
17 possibility of options other than no
18 cut. In each of these instances, which
19 option was utilized in the hypothetical
20 study?"

21 All right. And we are talking about now
22 Table 4 the inflexible situation. Under Guideline for
23 Wildlife in relation to No. 5 -- if you look at Exhibit
24 No. 4, Item No. 5 is wildlife?

25 A. Yes.

1 Q. And in the right-hand column under
2 harvesting is a reference to clearcut maximum of 130
3 hectares?

4 A. Yes.

5 Q. Can you agree that the approach which
6 was taken for the inflexible application of the
7 guidelines in this particular scenario is accurately
8 described in the answer to the interrogatory as
9 follows:

10 "It was assumed that average cut block
11 would not exceed 100 hectares and that
12 this area would contain a 10-hectare
13 shelter block."

14 A. Yes.

15 Q. So that the inflexible application of
16 the moose habitat guidelines for the purpose of this
17 particular scenario would in fact have average cut
18 blocks which would not exceed a hundred hectares and
19 that those areas would all contain a 10-hectare shelter
20 block?

21 A. Yes, that was the basis on which the
22 magnitude of reserves was determined.

23 Q. So that particular application of the
24 guideline doesn't really refer to the setting of a
25 reserve around a shoreline, but for the purposes of

1 this study, it's referring to the breaking up of the
2 cut in order to leave certain areas unharvested for the
3 purpose of providing wildlife habitat?

4 A. Yes. In other words, it's a
5 withdrawal of certain of the allocations from cutting.

6 Q. And it would be the removal of
7 harvesting that area for a period of time, not forever.

8 A. Yes, in principle at least.

9 Q. All right. If we look to page 34
10 which is the Midway study, and I understand again the
11 Midway study sort of starts off by looking at the
12 manner in which the areas were allocated for harvest?

13 A. Yes.

14 Q. If we look at the fourth bullet on
15 page 34, it says:

16 "It has been assumed that within
17 available timber allocations 15 per cent
18 of volumes will be lost to reserves."

19 And I take it then that the definition of
20 reserves for the purposes of this scenario is the same
21 definition that we have just described in relation to
22 the Abitibi-Price situation?

23 A. Yes.

24 Q. Now, you have not given evidence, Mr.
25 Ross, that the moose habitat guidelines were improperly

1 applied in either case study?

2 A. True.

3 Q.- And I assume, therefore, that you are
4 not in your evidence suggesting that there was in
5 either case an improper application of those
6 guidelines?

7 A. That is true.

8 Q. I take it that the import of your
9 evidence is, or you would agree that although there may
10 be cost implications due to the application of those
11 guidelines, it may have been a necessary result to
12 properly address wildlife concerns in the areas in
13 question?

14 A. I agree that it may have been. I
15 don't know that it was and I haven't seen any evidence
16 in the context of the case studies that it was, but...

17 Q. That is a matter that would have to
18 be dealt with by people with different expertise than
19 yours?

20 A. Agreed.

21 Q. Now, sticking with that comment on
22 page 34, it also goes on to say:

23 "We understand that this is the normal
24 planning parameter for the areas under
25 study."

Referring to this 15 per cent now. First of all, I want to confirm that you said - and I am attempting to put your words to you accurately - that the actual reserves put in place will depend on the particular situation?

A. Yes.

Q. Okay, that's correct.

A. To say another way, the reserves have not yet been defined. I am not sure that the areas of concern have been defined, I don't know.

Q. Now, although based on historical information approximately 15 per cent of allocated areas may get identified as reserves, it is my information, Mr. Ross, that there is no pre-determined rule of thumb that limits the percentage of the allocated area that gets identified as a reserve during the timber management planning process.

In other words, there is nothing telling the planner that they can't exceed some percentage such as 15 per cent. And could you advise me whether that is your understanding as well?

A. I don't know.

Q. Thank you. And, therefore, in your evidence you weren't suggesting that there was such a limit?

1 A. No, I think instead it's: if one has
2 to make an assumption, in order to work through the
3 analysis of what is a reasonable assumption, and I
4 understand that the woods manager at Midway checked the
5 reasonableness of that assumption with a couple of
6 district foresters in the areas where he operates.

7 Q. Thank you. Now, could you turn to
8 Exhibit 1060?

9 A. Could you provide me with what it is.

10 Q. That is the ESP study in relation to
11 zone-outs?

12 A. Yes.

13 Q. I think it's ESP, Ecological Services
14 for Planning Study. Now, you have that document?

15 A. Yes, I do.

16 Q. If we turn to the very first page,
17 can I assume that all of the losses of productive lands
18 referred to were losses which are attributable to the
19 application of guidelines; the guidelines being moose,
20 tourism, fisheries and other, that is...

21 A. Well, I didn't do this study and I
22 don't have a lot more documentation on it than is
23 provided here. So I guess what I would say is I
24 presume that that is the intent.

25 Q. And just keeping that document in

1 front of you, first of all, the reason I came to that
2 conclusion or belief was because the heading there it
3 says: Guidelines Causing Loss, and then it had listed
4 under that moose, tourism, fisheries and others and so
5 I assumed that others referred to guidelines?

6 A. That is what I assumed too for the
7 same reasons.

8 Q. All right. Can we keep that open and
9 go to page 24 of your report on the Economic Framework,
10 Exhibit 1047. This is dealing with the Abitibi-Price
11 study. Do you have that?

12 A. Yes.

13 Q. And you look at the first full
14 paragraph and it refers to the report of Ecological
15 Services for Planning having conducted a survey on
16 behalf of OFIA re: Zoneouts, and then it says:

17 "Which include guidelines with respect to
18 moose habitat, tourism, fisheries and
19 other concerns have resulted in the loss
20 of productive land."

21 I just wanted to confirm that when you
22 referred to 'and other concerns', you were referring to
23 guidelines in relation to other concerns, consistent
24 with what you just told me your interpretation of?

25 A. I believe that's right. I think what

1 I was probably doing was rephrasing those same headings
2 we have been referring to. I must say, that is what I
3 understand it to mean. I just don't know it for sure.

4 Q. Can I refer you to page 30 of the
5 framework document, and I am going to direct your
6 attention to the second bullet on page 30.

7 You were questioned about this by Ms.
8 Swenarchuk. And when you say: The current case - and
9 you are talking about Midway - illustrates the
10 implications of the Ministry of Natural Resources' role
11 as the central planner in Crown management units, I
12 have attempted to take accurate notes of a couple of --
13 of all of your evidence, Mr. Ross.

14 I want to read to you what I understood
15 your evidence to have been in relation to that, or some
16 of your evidence, and I want you to tell me whether
17 it's an accurate reflection of your evidence.

18 You said that you can't generalize the
19 numbers to all Crown management units - referring to
20 the numbers that you got on the Midway study - but the
21 situation the company finds itself in is similar; it is
22 that they have a complex planning system designed more
23 for large companies. Was that the description of what
24 you believe was the belief of Midway?

25 A. Yes.

1 Q. I also have you as saying: I don't
2 personally regard the planning process as being part of
3 the problem. This case study shows how a company on a
4 Crown management unit is affected by the planning
5 process. In the company's view the application of
6 guidelines have a big company slant. Is that again...
7

8 A. Could you repeat the first part of
9 that?

10 Q. Let me see if I can paraphrase the
11 question for you, it might make it easier. I spent
12 more time getting the answers down than I did the
13 questions:

14 That won't help, so I will just try to
15 give you the answer again. I don't personally regard
16 the planning process as being part of the problem. In
17 this case study shows how the company on Crown
18 management units is affected by the planning process.
19 In the company's view the application of the guidelines
20 has a big company slant.

21 A. Well, perhaps I can sort of recast
22 this part of my exchange with Ms. Swenarchuk. As I
23 recall she was asking me what the word implications
24 meant, and I think what she was asking was: Can one
25 generalize from this case study to the situation as a
whole of companies that operate in the Crown management

1 units.

2 And as soon as she asked that question I
3 thought that perhaps implications wasn't in fact the
4 wordy should have written there. And I think what I
5 intended really to mean was just that it illustrates a
6 different situation. The first case study illustrates
7 one situation, which is the situation of a large
8 company on an FMA, this case illustrates a different
9 situation, which is a small company on a Crown
10 management unit in which the MNR has a different role
11 with respect to the planning process.

12 I think perhaps Ms. Swenarchuk at that
13 point thought that I had some views as to whether there
14 ought to be different planning processes for large
15 firms and small firms or for Crown management units and
16 for FMAs, and although I may have stumbled around a bit
17 in the answer, I have no views on that subject which I
18 view as outside my competence and I think it -- well, I
19 think that is the situation.

20 Q. Okay. And therefore consistent with
21 the evidence you gave me right at the very beginning of
22 my cross-examination, when you say that the current
23 case study, Midway, was illustrative of a situation on
24 a Crown management unit, you are making the point again
25 that costs associated with the proper application of

1 the moose habitat guidelines can have a greater impact
2 on smaller companies than on larger companies, it's all
3 part and parcel of that whole message that you were
4 attempting to convey?

5 A. I am not -- yes. I am not sure that
6 I would say that it's -- I mean, it certainly can have
7 larger implications on smaller than larger companies,
8 if only because it has been illustrated by the two case
9 studies. I don't know that it necessarily does have
10 larger implications.

11 Q. Okay.

12 MR. MARTEL: Can I just ask one question.
13 The whole concept of the planning method from your
14 discussions with various people in the industry, would
15 it be that the smaller companies don't have the staff
16 or the capacity compared to, let's say, a large company
17 to cope with...

18 And so is that a perception that runs
19 right through the whole industry, it's much more
20 difficult for the smaller operator to get through it
21 all?

22 MR. ROSS: Well, I don't have a broad
23 enough base of experience with different companies
24 dealing with different aspects of that planning process
25 to have a firm view, but certainly undertaking these

1 two case studies raises that issue in my mind, it makes
2 me wonder whether that is the case or not.

3 And it's clear that there are
4 considerably different levels of resources available in
5 a large firm than in a small firm, and perhaps the
6 process gets more complex over time and has
7 differential impacts on firms of different sizes.

8 MR. FREIDIN: Unfortunately, I missed
9 part of what was stated, and subject to thinking about
10 whether I should end now, I wanted to consider what
11 that answer was, I am going to end my
12 cross-examination.

13 I am wondering whether we could do it
14 subject to me getting the transcript and perhaps asking
15 a further question as a result of that answer. But for
16 that, I have no further questions.

17 MADAM CHAIR: Thank you, Mr. Freidin.

18 We will adjourn for lunch and come back
19 at 1:35.

20 MR. FREIDIN: Thank you.

21 ---Luncheon recess taken at 12:05 p.m.

22 ---On resuming at 1:35 p.m.

23 MADAM CHAIR: Please be seated.

24 MR. FREIDIN: Two questions hopefully
25 with only two answers.

1 Q. First, Exhibit 1067 which were the
2 interrogatories I filed and in particular interrogatory
3 No. 4 filed by the Ministry of Natural Resources.

4 Mr. Ross, I am assuming that you can
5 speak to that particular interrogatory and confirm that
6 the answer is correct and that the correction that it
7 indicates should be made to page 25 of the economic
8 profile report, which is Exhibit 1046, is a correct
9 statement?

10 MR. ROSS: A. Yes.

11 MR. FREIDIN: So perhaps, Madam Chair, it
12 is a correction to page 25 of Exhibit 1046. The
13 correction, you will find it under the heading at the
14 top of that page, if you go down to the forth line you
15 will find the sentence that says:

16 "Crown dues are based on the Crown
17 rate..."

18 MADAM CHAIR: Yes.

19 MR. FREIDIN: "...which is in turn based
20 on..."

21 The correction is to change the words
22 'based on' to 'applied against'.

23 Q. And the other matter that I would
24 just like to seek some clarification of, Mr. Ross, is
25 just at the end Mr. Martel had asked you whether based

1 on your experience the smaller companies were having
2 more difficulty working through this, was his term, you
3 said, based on your case studies that it raised that
4 issue in your mind and you went on and gave some
5 explanation of that.

6 How did you interpret Mr. Martel's phrase
7 'having more difficulty working through this?' What
8 does 'working through this' mean or what did it mean
9 when you gave your answer?

10 MR. ROSS: A. I think Mr. Martel kind of
11 expressed it in the context of resources available.
12 That's not a question to what 'this' is, but I think
13 that's kind of the flavour of the question.

14 I guess working through this in my mind
15 means just dealing with the timber management planning
16 process as it becomes more complex through additional,
17 I guess, environmental constraints broadly defined.

18 Q. Can you advise whether in that
19 context you are talking about more difficult in terms
20 of planning or more difficult in terms of
21 implementation or both?

22 A. Tell me what you mean by
23 implementation.

24 Q. Implementation means actually being
25 out in the bush carrying out the activities which are

1 approved.

2 A. I was thinking more in terms of
3 planning, getting to the point of an approved timber
4 management plan.

5 MR. FREIDIN: Thank you. Those are all
6 my questions, Madam Chair.

7 MADAM CHAIR: Thank you.

8 Ms. Seaborn, are you ready to start?

9 MS. SEABORN: Yes. Thank you, Madam
10 Chair.

11 MS. SEABORN: I would like to begin by
12 filing a number of interrogatories that were posed in
13 relation to this panel by the Ministry of the
14 Environment, and I will just read the numbers into the
15 record. These are Ministry of the Environment
16 Interrogatory Nos. 3, 4, 5, 6, 7, 10, 12, 13, 14, 15,
17 16, 17, 18, 19, 20 and 21. And that would be exhibit
18 number...?

19 MADAM CHAIR: 1067.

20 MS. BLASTORAH: I think it's 1068, ma'am.

21 MADAM CHAIR: 1068. That's right.

22 MR. COSMAN: What is 1067, please?

23 MADAM CHAIR: MNR Interrogatory questions
24 2 and 4 and MOE question No. 14.

25 MR. COSMAN: Thank you.

---EXHIBIT NO. 1068: Ministry of the Environment
Interrogatory Nos. 3-7, 10,
12-21.

MS. SEABORN: Unless something comes to mind this afternoon, Madam Chair, my questions will all be directed for Mr. Ross.

I would like to deal first with the economic profile of the Ontario forest industry which is Exhibit 1046. I want to deal primarily with the tables that are found opposite pages 21 and 23 which are Exhibit 7 and 8.

Now, Madam Chair, you will recall that yesterday Ms. Swenarchuk asked some questions on this area and I will try and not repeat the areas that have previously covered, but I think that some further clarification is required with respect to Exhibit 7 and 8, at least for my client's purposes.

And the Board may recall that during MNR's Panel 5 evidence Mr. Campbell asked a number of questions about industry expenditures and contributions and at the time the Board was, in particular Mr. Martel, interested in knowing the sorts of revenues that were paid by the industry to the Crown and in fact in this witness statement at some point Mr. Ross has alluded in a footnote to some of the transcripts from the Panel 5 cross-examinations.

1 CROSS-EXAMINATION BY MS. SEABORN:

2 Q. Now, Mr. Ross, if we could look first
3 at Exhibit 7 which is opposite page 21, and I would
4 like to deal with the figures for 1985 and 1986. If we
5 add up the timber fees and area charges which are the
6 62.6-million and the 6.6-million in the right-hand
7 column at the bottom we come to total of \$69.2 million;
8 correct?

9 MR. ROSS: A. Yes.

10 Q. And this is a direct cost borne by
11 industry or what industry pays for the raw material
12 being the timber; is that correct?

13 A. I'm not sure how -- what the sort of
14 legal rationale for the payments is, but I think that's
15 certainly part of what's going on with those payments.

16 Q. And if we turn now to Exhibit 8,
17 which is opposite page 23, in addition to the timber
18 fees and area charges that were identified in Exhibit
19 7, we have identified under Exhibit 8 industry's
20 expenditures for silviculture, protection, resource,
21 access, research and other and that comes to a total of
22 \$36-million.

23 Now, can you confirm for me, Mr. Ross,
24 that with respect to the industry's expenditures that
25 are identified in Exhibit 8, these are expenditures

1 that were made by industry on behalf of forest
2 management activities on Crown land as well as private
3 land?

4 A. Yes.

5 Q. Thank you. And as has been noted
6 previously in 1985 and 1986, the public expended
7 \$308-million on silviculture, protection, access,
8 research and other.

9 Now, what I would like to look at for a
10 moment, Mr. Ross, is if we take this \$36-million figure
11 expended by industry and we add to it the timber fees
12 and area charges for the same period of time found in
13 Exhibit 7 we come up with approximately \$105.2-million
14 expenditure or contribution that the industry has made
15 for the purpose of receiving the timber; would you
16 agree with that?

17 A. I'm not sure I'd agree with the
18 purpose, I would certainly agree with the addition.

19 Q. Well, going back again in terms of
20 the purpose. I take it that the \$36-million
21 expenditure, you would agree, are expenditures in
22 relation to forest management activities in the area of
23 the undertaking, that's what the title of the exhibit
24 is?

25 A. Yes.

1 Q. And I think what we established
2 earlier is that leaving aside the question of taxes for
3 the moment, if we looked just at timber fees and area
4 charges we have a cost to industry of 69.2-million for
5 receiving that raw material that's going to fuel the
6 forest products industry; correct?

7 A. I'm having a bit of trouble with some
8 of the attribution that you are suggesting there; in
9 other words, I'm not sure I know the legal basis of all
10 these payments or all the reasons why the payments are
11 such as they are, but certainly access to the timber is
12 not available unless you pay the timber fees and area
13 charges.

14 Q. That's right.

15 A. And certainly the forest management
16 expenditures are expenditures on forest management.

17 MR. COSMAN: On the legal issue we may
18 have submissions, Madam Chair, but I have no objection
19 to the line of questions that my friend makes keeping
20 in mind that in the real world you don't eliminate what
21 is paid by way of federal and provincial taxes in the
22 exercise.

23 MS. SEABORN: Thank you, Mr. Cosman.

24 Q. I understand that that's your
25 position, Mr. Ross, in this paper, that we have to look

1 at taxes as well, but what I just want to look at is a
2 very simple correlation for the moment, is that to me
3 what the industry pays directly for the raw material is
4 going to be those stumpage and area charges and is also
5 going to be whatever the industry expends for the
6 purposes of forest management activities and that's a
7 direct expenditure for industry.

8 You would agree with that, wouldn't you?
9 And I am not asking you to make a legal -- any sort of
10 assumptions or any sort of analysis of what the legal
11 position is with respect to stumpage charges.

12 A. Yes. Generally yes.

13 Q. And given that 105.2-million
14 expenditure that I've put to you, would you agree with
15 me that it would be quite legitimate for someone to
16 compare that 105.2-million figure with the 308-million
17 figure that's found on Exhibit 8 for 1985 and '86 in
18 terms of expenditures on forest management activities?

19 A. I'm sure it's legitimate to compare
20 the numbers. I think probably any set of numbers you
21 choose to compare is an attempt to answer a certain
22 question and I guess if one is answering a different
23 question that one compares a different set of numbers.

24 Q. That's fair. And I think all I am
25 suggesting is that you have looked at these figures in

1 one way and there may be another way of correlating
2 these two exhibits, and what I am suggesting is that
3 one way of correlating the two exhibits would be to
4 look at government's expenditures for 1985 and '86
5 under Exhibit 8 and compare those against not only what
6 you have included, the \$36-million, but also compare
7 those against the stumpage fees in addition, so that we
8 basically are looking at a \$308-million contribution
9 versus a \$105-million expenditure?

10 A. I agree that someone could make that
11 comparison and that's legitimate that they might do so.

12 Maybe I can make a comment because the
13 issue in -- the question in the end is: How do you
14 define what you mean by who makes what expenditures,
15 and I think the way that one thinks about it in the end
16 is that you compare the existing situation with some
17 hypothetical situation that illustrates the point you
18 are trying to make.

19 And perhaps the hypothetical situation
20 here - and we allude to this at the top of page 21 -
21 the hypothetical situation in a sense is what would
22 happen if there were not a forest industry, how much
23 less would be spent on forest management, how much less
24 would be paid by the forest industry to government, how
25 much less would be paid by governments to the industry.

1 It's easy to say that but it's kind of
2 hard to visualize a situation in which there is no
3 forest industry, so you have got to come at some way of
4 approximating -- well, let me back up.

5 I think what we have argued in fact in an
6 interrogatory response to the Ministry of the
7 Environment is that it's not worth actually asking --
8 it's not worth trying to figure out what would happen
9 in northern Ontario if there were no forest industries.
10 I mean, that involves asking questions like how many
11 people would live in northern Ontario, how much would
12 the Province of Ontario spend on educational funding in
13 northern Ontario. It forces you to ask all sorts of
14 questions that are very elaborate and difficult to
15 formulate and if you knew the answer what would you do
16 anyway because you can't kind of flip a switch and put
17 yourself in the situation where there is no forest
18 industry.

19 So in a sense you can't answer the
20 question that you need to answer to really address this
21 issue of who pays what to whom. And I think what you
22 do is back off, at least in my mind, and ask simpler
23 questions but try and do so in a way that you're not
24 unduly penalizing flows in one direction or flows in
25 the other direction and I think that's really the

1 philosophy behind what we've tried to do.

2 To say that a little differently. As you
3 suggest, it's possible to compare any two sets of
4 numbers and in some ways it's legitimate, but if you
5 are asking yourself: What's the relative balance that
6 flows in one direction than the other, then you've got
7 to try and treat the flows in both directions
8 equitably. Just what that means in the end is probably
9 a bit of a matter of judgment, but what we're trying to
10 do here is find a way to kind of retreat from the ideal
11 equally on both sides of the flow.

12 Having said all of that, I don't whether
13 it's that clear but I think what I'm saying is that
14 there has to be a philosophy that underlies the
15 comparisons you make. You can actually pick any
16 numbers you want and each set of numbers you pick in a
17 sense answers a different question. If you're trying
18 to get some balance you have to have a bit of a
19 philosophy as to what you're doing and I have tried to
20 express ours, perhaps not clearly as I might have.

21 MR. MARTEL: Can I ask a question then.
22 Isn't it the concern of some people, though, that what
23 you have left as a government after you've paid out so
24 much to keep revitalizing the forest in the final
25 analysis is really worth it because you don't seem to

1 have much left after you have paid all the bills and
2 you have taken in all the revenue, there isn't much
3 left in the treasury house, and that's a concern I'm
4 sure you've heard.

5 MR. ROSS: Sure. And I think the
6 answer -- I mean, one could express the same concern
7 about government as a whole. I mean, in the end
8 government typically spends a little more than it takes
9 in and you ask yourself: Is government a profitable
10 venture or is society well served and I guess the
11 answer is, it made some judgments as to what was
12 appropriate.

13 But in a sense it's the same kind of
14 thinking that underlies what we've done here. In other
15 words, I think it's unlikely that if there weren't a
16 forest industry that most of this corporate income tax
17 revenue that we've included in Exhibit 7 and Ms.
18 Seaborn by implications is excluding, it's unlikely
19 that most of that revenue would accrue to governments
20 in the absence of the forest industry. Certainly from
21 the area of the undertaking. I think it's unlikely
22 that most of these other tax revenues would accrue as
23 well.

24 At some point you get to the point where
25 Ms. Swenarchuk got to yesterday which is to say yes,

1 but there's other payments that are made to the
2 residents of northern Ontario by the government for
3 social services and for all sorts of things and yes,
4 that's true too. And if you start to put them on one
5 side of the equation, then you say yes, but of course
6 there's other revenues that are also ultimately derived
7 from the activities of the forest industry, for
8 example - and this was a category that was used in
9 Panel 17 but we have excluded - there are sales taxes
10 paid to the government on the retail purchases of the
11 people who work in the forest industry.

12 So, yes, you can put some more on this
13 side; yes, you can put some more on that side. There
14 is no ideal -- I mean, there's no way of deciding
15 what's the perfect comparison or where do you stop
16 making those tradeoffs, but I guess the thinking behind
17 what we did is, in the absence of the forest industry
18 you are not going to get the corporate tax revenues.

19 You might get some personal income tax
20 revenues, but it wouldn't be nearly as high because, as
21 I think it has been clearly demonstrated, this is a
22 high income industry, a high wage industry, the people
23 would be doing something that I'm sure results in a lot
24 less personal income tax as I anticipate tourism would,
25 for example.

1 So maybe we are going a bit too far if we
2 put all the personal income tax in, but we're certainly
3 not going far enough if we don't put it. On the other
4 hand, although that money is all spent on forest
5 management, the forest industry is not the only person
6 who benefits from it, so in a sense we are overstating
7 the cost of supporting, if you will, the Ontario forest
8 industry because, in fact, lots of people are receiving
9 benefits and you would have to be in the protection
10 business, you might well have to be in the silviculture
11 business whether you had a forest industry or not.

12 So where do you tradeoff, and there is no
13 perfect place and almost I think in your mind you put .
14 another weight on one side of the scales and they you
15 say: Have I gone too far, do I put one on here, do I
16 take one off here, seeking balance and I suppose in the
17 end each person has to decide where the balance lies,
18 but in my view I think we have done as good a job as we
19 can in finding the balance.

20 MS. SEABORN: Q. I understand --

21 MADAM CHAIR: Excuse me, Ms. Seaborn. Is
22 Mr. Ross' interrogatory response to your question an
23 exhibit yet? Is it in this package?

24 MS. SEABORN: Which question?

25 MS. BLASTORAH: Madam Chairman, I think

1 the one to which Mr. Ross was referring may have been
2 MNR's interrogatory No...

3 MR. FREIDIN: No. 1.

4 MS. BLASTORAH: No. 1.

5 MR. FREIDIN: Part of Exhibit 1067, it
6 might have been.

7 MADAM CHAIR: That starts with question
8 2.

9 MR. FREIDIN: MNR 1 should have been part
10 of that package.

11 MR. ROSS: Yes, I'm sorry, that's
12 correct, it is an MNR --

13 MADAM CHAIR: I have Exhibit 1067.

14 MR. FREIDIN: Does yours not have No. 1?

15 MR. COSMAN: It doesn't have number No.
16 1.

17 MR. FREIDIN: MNR 1 was supposed to have
18 been part of that. I read that into the record, it
19 was --

20 MR. ROSS: It is question 2.

21 MADAM CHAIR: All right, we have got it.
22 Thank you.

23 MR. FREIDIN: Oh, I'm sorry.

24 MR. ROSS: Is that clear then, that in
25 fact in sense what I was doing was restating at more

1 length some of the thoughts that were in our
2 interrogatory response to MNR question No. 2, which is
3 actually -- the question is a quote from the same place
4 that I was directing you to in the report.

5 MS. SEABORN: Q. Well, Mr. Ross, you
6 stated in evidence-in-chief and in Exhibit 1046 that as
7 an example for the years 85/86 the contributions by
8 industry and government were relatively equal, is that
9 correct, based on your analysis?

10 In fact, I think you came to the
11 conclusion that the industry contribution was greater
12 than government expenditures and I'm looking at page 20
13 of your report. Do you see that?

14 MR. ROSS: A. I certainly see page 20
15 and I think what we did was we said how much we thought
16 the governments were spending, we thought how much the
17 industry was contributing. I'm not sure we ever
18 compared them.

19 Q. I don't have the transcript, but I
20 thought there was some evidence-in-chief that you were
21 generally saying that the contributions, at least in
22 the years you looked at for the purpose of the report,
23 were relatively equal. In any event, we can all look
24 at the numbers.

25 A. Okay.

1 Q. And I guess my point of asking these
2 questions is that you have come to that conclusion and
3 it may be that someone else looking at these exhibits
4 may want to, and quite legitimately, look at these
5 numbers in a slightly different fashion and all I'm
6 suggesting is that, for example, in 1985/86 the amount
7 that the public expended just for resource access in
8 the area of the undertaking is \$60-million and that is
9 \$2.6-million less than the total stumpage fees paid
10 during the same year. You would agree with that?

11 A. That's sort of a two-part question,
12 and I'm not sure I remember the first part.

13 The second part, I think you are saying
14 60-million on resource access is about the same as
15 timber fees of \$62-million.

16 Q. That's correct.

17 A. And the answer is yes. But I forgot
18 the first part.

19 Q. What I'm suggesting is that someone
20 looking at the -- another way of looking at these
21 exhibits and these numbers that you have given us is to
22 look at what the industry directly expends versus what
23 the government directly expends leaving aside the issue
24 of taxes and other indirect payments, which I gather
25 from your earlier comments is a more subjective

1 matter--

2 A. I'm not sure --

3 Q. --in the sense of how far you go?

4 A. But I think you're making a
5 subjective judgment to make the comparison you are
6 making as well. I'm not saying that that's not a
7 legitimate comparison, I'm just saying when you choose
8 to make a comparison one ought to have a rationale or a
9 philosophy behind it. To say it a little differently,
10 every time you pick some categories to compare you
11 decided you want to ask a certain kind of question.

12 Q. Sure. And depending on who is doing
13 the comparing there is going to be a slightly different
14 bias brought toward that comparison; is that fair?

15 A. I'm not sure I agree with the word
16 bias.

17 Q. Well, I think you said that my
18 comparison had a somewhat subjective nature to it and I
19 would take from that that what you are saying is that
20 when people do make comparisons of different numbers -
21 it is always a problem in looking at numbers and
22 statistics - that there is going to be certain biases
23 and judgments that are going to come into the exercise?

24 A. I don't think subjectivity is the
25 same as bias. I mean, subjective just means that you

1 haven't got objective criteria. So I think I was
2 reacting to your kind of switching the word
3 subjectivity into the word bias, but I agree it's
4 subjective and I think that in a sense is what I've
5 been saying. You can't -- if there are no objective
6 criteria, you can say this is the question you ought to
7 ask and this isn't the question you should ask, so you
8 ask the questions that interest you in a sense.

9 Q. That's fine.

10 A. Could I just make one other
11 observation, though.

12 Q. As long as it's short, I don't --

13 MR. COSMAN: If it is responsive to one
14 of the questions I think the witness should be allowed.

15 MS. SEABORN: Well, that's fine. If Mr.
16 Ross is responding to the question I'm quite happy to
17 hear his answer.

18 MADAM CHAIR: Go ahead, Mr. Ross.

19 MR. ROSS: Thank you. It has to do with
20 this issue of \$60-million on resource access.

21 MR. FREIDIN: What page are we referring
22 to?

23 MR. ROSS: Exhibit 8, I'm sorry.

24 MR. FREIDIN: Thank you.

25 MR. ROSS: It is my understanding that

1 one of the reasons that the government has got into the
2 road funding business under the FMA arrangements is
3 that there was a desire to put access in place to get
4 the old timber that was otherwise getting left behind
5 or there was a risk it was not going to get harvested.

6 And I think I spoke yesterday, I believe,
7 a bit about what's been happening to road funding and I
8 think cited something from an earlier transcript that
9 really attributed that view to the MNR. I say this
10 because I guess it's not clear in the end if the
11 provincial government decides that it wants to spend a
12 bunch of money on funding road access to get to
13 otherwise inaccessible and potentially overmature
14 timber whether in the short run that's to the benefit
15 of the forest industry or whether it's really to the
16 benefit of the government as the owner and custodian,
17 if you will, of that resource.

18 I'm saying that in part just, I guess, to
19 maybe avert the risk of sort of overly simplistic
20 comparison between who's doing what for whom when you
21 are looking at the transfers of funds back and forth.

22 MS. SEABORN: Q. I take it, Mr. Ross,
23 that if the government suggested to industry that it
24 could have the wood for free in the sense of doing away
25 with the concept of stumpage fees and area charges in

1 return for the industry funding forest management
2 activities on its own; i.e., access, renewal and
3 protection, that would not be something that would be
4 acceptable to the industry?

5 MR. ROSS: A. I think you would have to
6 ask the industry that question.

7 Q. I would like to deal now, Mr. Ross,
8 with Exhibit 1047 which is the economic impact
9 framework, and could you also have handy Exhibit 1035
10 which is the Superior Forest Logging Operations and
11 Protective Guidelines Assessment and the
12 interrogatories that have just been filed as Exhibit
13 1068. Did you get a copy of those interrogatories?

14 A. No, although I have a package.

15 Actually it's probably easier if you have an extra.

16 Q. That's fine. (handed)

17 A. Thanks a lot.

18 Q. Now, I believe you told Ms.
19 Swenarchuk yesterday that the intent of your report was
20 not to conduct a cost/benefit analysis in relation to
21 MNR timber management policies and practices; is that
22 correct?

23 A. Yes.

24 Q. And are you aware, Mr. Ross, that the
25 OFIA/OLMA has taken a position in this hearing that

1 supports the concept of integrated resource management?

2 A. I guess in a general way I'm aware of
3 that.

4 Q. And in this regard I provided to you
5 through your counsel a copy of Mr. Boswell's witness
6 statement that was prepared in Panel 1. Do you have
7 that with you?

8 A. Yes.

9 MS. SEABORN: Madam Chair, I am not sure
10 it is necessary for the Board to have it with them if
11 it's not handy, I am just going to read one sentence.

12 Q. If you could turn to page 1 of that
13 report. The introduction says that:

14 "E.B. Eddy Forest Products Limited is
15 aware that sound forest management
16 practices are the first step in
17 maintaining the successful fully
18 integrated forest products enterprise.

19 This awareness is accompanied by the
20 recognition that..." and No. 1, "Ontario
21 forests belong to the people of Ontario
22 which serve a multitude of uses from a
23 wildlife habitat to a source of
24 industrial wood fiber."

25 And would you agree, Mr. Ross, that

1 through a cost/benefit analysis of timber management
2 policies and practices one may conclude that what is a
3 cost to the industry may be a benefit to someone else?

4 A. The reason I'm hesitating is because
5 the focus of cost/benefit analysis is really to
6 consider decisions from the perspective of society as a
7 whole. In other words, it's really a technique that's
8 intended to determine, at least in principal, if
9 society is better off choosing course A rather than
10 course B.

11 There is often as part of a cost/benefit
12 analysis and there should be as part of a cost/benefit
13 analysis a consideration of the distribution of the
14 cost and the benefits. In that sense, perhaps a
15 cost/benefit analysis -- a situation can arise in which
16 one person's cost is another person's benefit, but I
17 think within the context of benefit/cost analysis,
18 really benefits are benefits and cost are costs from a
19 social perspective. It's not that they have opposites
20 sides depending on who bears them.

21 Q. Well --

22 A. A benefit/cost analysis is actually a
23 technical term or a piece of jargon in economics. It
24 means a specific thing.

25 Q. That's right. Now, in the context of

1 integrated resource management, would you agree that
2 one would seek to determine both the cost of timber
3 management policies and practices and the benefits that
4 would be relative to those costs? Wouldn't that be one
5 way of carrying out a cost/benefit analysis?

6 A. That's certainly a type of
7 cost/benefit analysis that would could use with respect
8 to forest management decisions.

9 Q. Okay. And your study --

10 A. Sorry, could I just finish. I've
11 read the page or two on integrated resource management.
12 I'm not quite sure -- I mean, I read it and I sort of
13 understand the words. It doesn't mean I'm quite sure
14 what it means in terms of how one implements it and
15 whether the implication is it requires a cost/benefit
16 analysis or whether it doesn't.

17 Q. That's fine. And your study did not
18 address the use of timber management guidelines in the
19 context of integrated resource management. Would you
20 agree with that?

21 A. I'm not quite sure what the question
22 means.

23 Q. Okay. Let's go to Exhibit 1035. It
24 may become more clear. Now, if you could turn to page
25 22.

1 A. This is the Superior...

2 Q. Yes.

3 A. Yes.

4 Q. The blue cover. If you could turn to
5 page 22 of the report. Now, the authors conclude that
6 the implementation of the moose and fishery guidelines
7 will have a significant impact on wood cost and wood
8 supply and will, as a consequence, reduce the
9 competitiveness of the local forest industry.

10 I thought it was interesting that they
11 went on in the next paragraph to state that:

12 "In areas where the benefits (social,
13 biological, economic) of implementation
14 of the guidelines can be demonstrated to
15 meet or exceed the equivalent benefits
16 of a healthy forest industry, then the
17 use of the guidelines can be justified.

18 If, however, the guidelines are imposed
19 without regard for the relative value of
20 the resource they are intended to protect
21 and without regard for the impact they
22 have on other uses, then the purpose and
23 objectives of integrated resource
24 management will not be achieved."

25 And I understand from that statement that

1 the authors of this report are of the view that the
2 guidelines must be evaluated in the context of not only
3 the cost to industry, but also in the context of
4 achieving the objectives of integrated resource
5 management. Would you agree with that?

6 A. That's what I understand them to be
7 saying too, yes.

8 Q. And would you agree with me then in
9 order to meet the objectives of integrated resource
10 management the cost to the industry of the reserve
11 scenarios that you have presented to the Board must
12 also be analysed in the context of potential benefits
13 of the implementation of timber management policies and
14 objectives?

15 A. I think conceptually that's true,
16 sure. I'm not sure that in a way it isn't a
17 restatement of my understanding of the OFIA's position
18 and the OLMA's position that I put at the beginning of
19 the framework report which, if I find it...

20 In other words -- and I'm on page 1 of
21 the economic impact framework report. And I think I've
22 said this before, it's my understanding that their view
23 is that changes in timber management policies and
24 practices should be subject to impact analysis; in
25 other words, what are you getting, what's the economic

1 impact of achieving it -- or of implementing it, I'm
2 sorry, and then tradeoff or consider, compare those two
3 things.

4 I think that's what the Superior -- the
5 authors of the Superior study are saying. That's, I
6 think, what I understand the OFIA and the OLMA to be
7 saying and I think it makes eminent good sense myself.
8 I guess it's not clear to me whether -- when they use
9 the word benefits in the Superior study, as I think
10 they did in that sentence you were referring to that's
11 on page 22 - it's on page 22 in the very last paragraph
12 of the study - whether the implication is that this
13 should be a formal social benefit cost analysis as
14 those words are understood by economists, particularly
15 because the report was written by foresters, if I may
16 say so.

17 So all I'm really -- I don't think any
18 one would deny that one ought to make those tradeoffs.
19 I think there is some questions as to whether the
20 implication is that one has to do a formal benefit/cost
21 analysis and that's the whole of it. I think that's
22 the point I'm trying to make.

23 Q. Okay. And I don't think I'm
24 suggesting anything complicated. All I am suggesting
25 to you is that it appears to me that the authors in the

1 Superior report have gone one step further than you
2 went in your report in terms of saying: Okay, we have
3 looked at the cost of reserves, the next step we have
4 to do is have a look at those tradeoffs.

5 And I think it is fair to say from your
6 earlier evidence that that is not something that was
7 contemplated by the scope of your report and it was not
8 something you therefore undertook, was to look at the
9 tradeoffs between the cost of reserve versus the
10 implementation of guidelines and how it may or may not
11 benefit other users of the forest.

12 A. Well, I think it's true that we
13 haven't done that, although I think in fact both
14 reports are almost in exactly the same situation.
15 They've effectively looked at the economic impact side
16 and have said this is only half the question. It's
17 also important to look at the other half. But I'm not
18 sure it's fair to say that the Superior study has gone
19 beyond our study because in the end it has done exactly
20 what we did. It has looked at the impact on wood costs
21 of implementing certain reserve guidelines.

22 Q. I agree with you, they have not gone
23 beyond your study in that sense, but they have
24 suggested that in their view this would be the next
25 step that one would take in the analysis, would be to

1 take make those tradeoffs.

2 And I am just confirming, in terms of the
3 scope of your study and the two case studies for
4 Abitibi and Midway, that you didn't do that either?

5 A. No.

6 Q. You didn't do that next step of
7 making those tradeoffs?

8 A. No, we didn't and I think one reason
9 we didn't is the information that's required to do
10 that, for example, to figure out what the efficacy of
11 different guidelines with respect to moose management
12 are, we didn't see available any existing studies that
13 would help us understand that and it's certainly not
14 within our competence to figure it out from scratch.
15 But in principal it's clear that's the other half of
16 the equation; what are you giving up, what are you
17 getting and how do you balance those two.

18 Q. Thank you. I want to have a look,
19 Mr. Ross, at some of the specifics of the case studies
20 and, first, if we could look at the Abitibi-Price case
21 study. Now, there has been some discussion with you
22 both arising from questions from Ms. Swenarchuk and
23 questions today from Mr. Freidin about whether you
24 would agree that the inflexible application of the
25 guidelines were what may be termed worst-case

1 scenarios?

2 A. There certainly has been some
3 discussion.

4 Q. And I just want to confirm that you
5 would agree with me that in terms of the inflexible
6 application of the guidelines for the Abitibi-Price
7 study you did in fact look at the strictest application
8 of those guidelines?

9 A. That's essentially true. I'm not
10 sure it's literally true. I'm not sure that there
11 isn't conceptually a stricter application, but
12 certainly the gist of what we were doing was to get at
13 the top end of stringency of application of the
14 guidelines.

15 Q. Okay. And just to be clear on this,
16 if you could turn to MOE question No. 12 which is part
17 of exhibit 1068, the package just filed earlier this
18 afternoon, and you will recall the same chart was
19 provided in a response to a somewhat differently worded
20 question that was posed by another party.

21 In any event, under --

22 MR. COSMAN: Question, sorry?

23 MS. SEABORN: Question 12.

24 Q. Under approach on the right-hand
25 column for fish and tourism, it was established

1 yesterday that there was no topographical data
2 available and it goes on to say in that response it was
3 assumed that the worst-case fish guidelines would apply
4 with no harvesting within a 90-metre area of concern.

5 Now, from my understanding of the
6 guidelines and from this response I would say that it
7 is my understanding that this confirms that for the
8 fish guidelines you were looking at the strictest
9 application of those guidelines?

10 A. I suspect that's true without really
11 being an expert in the guidelines.

12 Q. Okay.

13 A. The question in my mind is -- and the
14 reason I'm qualifying my answer a bit about whether
15 this is the worst-case, I don't whether this
16 interpretation of the wildlife guideline is the most
17 stringent interpretation that could be made.

18 Q. Well, I was just dealing with fish to
19 begin with. And if you could turn to page 22 of your
20 report under Inflexible Reserves, you make it clear in
21 that paragraph, do you not, that you are treating the
22 guidelines not as guidelines but rather as rules and
23 the inflexible reserve scenario has attempted to
24 reflect these guidelines in the analysis. And in the
25 bottom paragraph you refer to:

1 "The solution has been to assume the
2 worst-case; i.e., the guidelines have
3 been incorporated assuming that all lakes
4 are cold water lakes and that all
5 lakeshores are steep. This tends to
6 overstate the size of estimated
7 reserves."

8 Correct?

9 A. Yes, I think you're just reading from
10 the report.

11 Q. That's right.

12 A. I am using the word worst-case here
13 differently than you used it a few moments ago, though,
14 because I'm saying that in those areas where we didn't
15 have -- for those guidelines for which we didn't have
16 the data to apply them literally, which are basically
17 the fish and moose guidelines; in other words, the
18 slope guidelines and the differential ways of treating
19 warm water and cold water bodies, in those cases where
20 we didn't have the data we assumed that everything
21 was -- really we assumed that the topography and the
22 nature of the lakes was the worst-case. So it's not
23 the guidelines that were the worst-case, it's that --
24 let's assume that the data that we don't have is the
25 - worst-case data; in other words, let's assume we have

1 to put the biggest reserves around everything, let's
2 assume that we are pushed as far as the data might push
3 us if we knew what they were.

4 Q. And the logical result of that is
5 applying the guidelines in their strictest fashion?

6 A. In those categories?

7 Q. Yes.

8 A. Yes. Well, sorry, you see they are
9 strict in two ways. One is to say that you need a
10 different reserve depending on what the slope is around
11 the lake. The other is to say - and I think this is
12 what Mr. Freidin was alluding to this morning - which
13 is that maybe you can do some selection harvesting in
14 the areas of concern or maybe you would have to stay
15 out entirely.

16 Q. Okay. We will get to some of the
17 specifics in a moment. Now, Ms. Swenarchuk also
18 suggested to you yesterday - or this may have been
19 perhaps been Mr. Watson - that no one is this hearing
20 was suggesting that the forest industry be shut down in
21 Ontario and I would similarly suggest that no
22 intervenor in this hearing is suggesting that the
23 current timber management guidelines be applied as
24 rules without flexibility and without choice. Would
25 you be aware of this position?

1 A. Well, I guess I would say in turn I'm
2 not suggesting that anybody is suggesting that. These
3 are -- the scenarios that we have taken are
4 hypothetical situations for the purpose of analysis. I
5 don't think we were attributing motive to anybody by,
6 for example, choosing the inflexible reserve scenario.
7 We are just illustrating the implications of a
8 particular scenario.

9 MR. MARTEL: Not being an economist, what
10 does that do to your study then if you take the worst
11 situation and apply it across the size of an area we
12 are looking at in terms of making comparisons?

13 MR. ROSS: Well, I don't think we're
14 talking about finding the worst area here and then
15 assuming every place is the worst area, which is a
16 little bit what you you are alluding to.

17 MR. MARTEL: Let me just stop you there
18 for a moment. If you assume that all the lakes are
19 cold water lakes and all the slopes in the lakes are
20 bad or extensive, you have given yourself a pretty good
21 start in that direction, if I might say.

22 MR. ROSS: Okay. I misunderstood what
23 you were saying. That's a fair comment.

24 MR. MARTEL: I just don't know. If you
25 do that, what does it do to the results of your

1 analysis that you are attempting to do then?

2 MR. ROSS: Well, I think all we are
3 really trying to do is illustrate a methodology and
4 show that the results are substantial.

5 We have said, and I think we have said it
6 fairly carefully, if these results are representative,
7 just almost in a way of putting the numbers in context,
8 we are talking about \$20-million. I think we've also
9 said, as has been pointed out, that for reasons of data
10 availability we were pushed into an approach, if you
11 will, by the lack of data that didn't -- that probably
12 means we have overstated these results, although the
13 sense is not by very much because of the particular
14 nature of the area and the fact that it's pretty
15 heavily used by other users of the resource.

16 But I think one would need to be
17 concerned in that regard and I don't think we're
18 putting forward this \$20-million as anything more than
19 an illustration of what the number would be if it were
20 applicable to the province as a whole. I don't think
21 we are arguing that it is the number, and I don't think
22 you could do a case study, you know, a single case
23 study and then say: Let's multiply all this by a
24 zillion per cent and assume it's true for the province
25 and then actually act on that information.

1 MR. COSMAN: Madam Chair, just before my
2 friend continues on this. It was put by my friend that
3 no one is suggesting that the guideline be applied
4 strictly and I will not intervene to argue with that at
5 this point, but I do say there is a difference in view
6 on whether that is so or not. And even though this
7 witness can't answer that, that will be the subject of
8 submission and argument later in the hearing.

9 In the same sense my friend is quite
10 right, no one is so foolish as to suggest that the
11 industry should be closed down, it is far more subtle
12 than that, it is the effect of certain proposals and
13 conditions that certain parties are submitting that
14 should be conditions of operating which will have,
15 which will be the subject again of further discussion in
16 this hearing and further submission.

17 MADAM CHAIR: The Board notes your
18 comments, Mr. Cosman.

19 MR. COSMAN: Thank you.

20 MS. SEABORN: Mr. Cosman, I won't quibble
21 with you on words, but I think what I was suggesting
22 was not that the guidelines not -- not that some
23 parties were not advocating that the guidelines be
24 applied in their strictest sense, what I was suggesting
25 is that no one was, in my view, putting forward a

1 position that the guidelines should not be -- should
2 only be treated as rules and you have to follow those
3 rules no matter what the circumstances are.

4 In any event, I accept your comments in
5 that regard and I expect the matter will arise again.

6 Q. I just want to ask you a couple of
7 questions with respect to some of the assumptions. In
8 relation to the no-reserve scenario - and I understand,
9 Mr. Cosman, that the industry is not advocating such an
10 approach and that's not your position in front of the
11 Board - I do want to ask a couple of questions about
12 the use of such a scenario to illustrate quantitatively
13 the magnitude of existing reserves because I think the
14 use of a no-reserve scenario is significant when we
15 look at the magnitude between no reserves to inflexible
16 application.

17 Now, would you agree with me that
18 pursuant to legislation, whether it is federal or
19 provincial, the industry may be required in certain
20 circumstances, regardless of MNR's timber management
21 policies, to ensure that reserves existed in order to
22 comply with that legislation?

23 MR. ROSS: A. It's certainly possible,
24 yes.

25 MS. SEABORN: And one of the examples,

1 Madam Chair, that we have discussed in the past in this
2 regard is the Federal Fisheries Act and the provisions
3 that are contained in that Act with respect to
4 protection of fish habitat and water quality.

5 Q. Now, would you agree that if you had
6 used as a base case a scenario that reflected reserves
7 that the industry would have to -- may have to put into
8 place as a result of the legislation, other than MNR
9 policies, that the result may be that, for
10 Abitibi-Price at least, the magnitude of the 12 per
11 cent that you have come up with may shrink?

12 MR. ROSS: A. It's certainly possible.
13 I don't know very much about the details of other
14 legislation that would impose the equivalent of
15 reserves, but assuming, as you suggest, that that's the
16 case, that sounds plausible to me, then the answer is
17 certainly.

18 Q. Thank you. Could we look for a
19 moment at Exhibit 3, the status quo application of the
20 guidelines and the second page of Exhibit 3 under
21 tourism. There is a reference to outfitter lakes and
22 cottage lakes, and I'm wondering whether you could find
23 out for me how many cottagers are in the area that was
24 studied by Abitibi-Price?

25 Now right now, but you could get back to

1 me through your counsel.

2 A. I don't know the answer. I don't
3 know whether Abitibi-Price knows the answer.

4 Q. You don't think Abitibi-Price would
5 know the answer to that?

6 A. No, I'm saying I don't know if they
7 know the answer.

8 Q. Could you find out, first, if they
9 know the answer and if they do I would like to have the
10 answer.

11 MADAM CHAIR: Ms. Seaborn, was your
12 question how many cottage lakes or how many cottages?
13 I didn't hear clearly.

14 MS. SEABORN: The number of cottage
15 lakes.

16 MR. ROSS: I'm sorry, I thought you asked
17 me --

18 MS. SEABORN: And the number of
19 cottagers.

20 MR. ROSS: Okay. It's the latter that I
21 was expressing uncertainty about.

22 MR. FREIDIN: Just so I am clear, the
23 number of cottagers or the number of cottages because
24 there would be lots of cottagers?

25 MADAM CHAIR: She said cottages.

1 MR. FREIDIN: No, she said-cottagers.
2 MS. SEABORN: Cottagers.
3 MADAM CHAIR: The population of
4 cottagers.

5 MR. COSMAN: You want the population of
6 cottagers?

7 MADAM CHAIR: How helpful will that be,
8 to know the population of --

9 MS. SEABORN: I will explain why I raise
10 this. If you look at page 22 at the bottom of the
11 page, we looked at the comments with respect to the
12 worst-case guidelines. The last sentence attributes a
13 comment to the Abitibi-Price foresters. They note
14 that:

15 "This particular operating area is
16 heavily used by cottagers and tourists so
17 that they anticipate that there would be
18 heavy pressures for extensive reserves."

19 Now, in the way that this study has been
20 put forward we don't have the details to verify that
21 statement and if there is, whether it is a statistic or
22 something from the timber management plan that could be
23 helpful, that would suffice.

24 MR. ROSS: I will --

25 MR. COSMAN: Excuse me just for a minute.

1 We will do our best, Madam Chair, to find out and if
2 Mr. Ross doesn't have it I will do my best from Abitibi
3 directly to provide that information.

4 MR. ROSS: I certainly don't have it.

5 MS. SEABORN: I appreciate that.

6 Q. Now, I want to look at a couple of
7 the comparisons between the status quo application and
8 the guidelines versus the inflexible application of
9 guidelines.

10 MR. FREIDIN: Sorry, where are we?

11 MS. SEABORN: Exhibit 3 and 4, Mr.
12 Freidin.

13 MR. FREIDIN: Thank you.

14 MS. SEABORN: Q. Now, in terms of the
15 inflexible application scenario, which is Exhibit 4, I
16 think we have established that the current Fish Habitat
17 Guidelines, which have been filed in these proceedings
18 as Exhibit 303, were used to fill out the columns with
19 respect to the areas of concern and the constraints; is
20 that correct?

21 MR. ROSS: A. I think there is a limit
22 as to how much detailed information I can provide you
23 about the nuts and bolts, if you will, of the specific
24 items in these guidelines. I think, as I made clear,
25 they -- in these exhibits rather.

1 As I made clear, the job of translating
2 guidelines into a form that could be applied for our
3 case study analysis was in the hands of people who do
4 this on a day-to-day basis at Abitibi-Price. My
5 understanding is they used whatever the most current
6 version of the guideline were, some of which were still
7 in draft form, at the time that this work was put
8 together which was probably, in my recollection, early
9 1989 perhaps.

10 Q. I can advise you that the Fish
11 Habitat Guidelines which are Exhibit 303 are dated
12 April 1988, and if we turn to page 3 of those
13 guidelines there is the Timber Management Guidelines
14 for the Protection of Fish Habitat and there is a
15 summary.

16 I came to the conclusion that these most
17 recent guidelines were used to determine the inflexible
18 application of guidelines because I compared the
19 summary in the Fish Habitat Guidelines to your Exhibit
20 4 and the numbers are the same, as were the
21 constraints.

22 MR. ROSS: A. I'm not quarreling with
23 your conclusion, I'm just saying I didn't actually --
24 well, to say this a little differently. I summarized
25 more detail material that had been provided by the

1 Abitibi-Price people and put it in Exhibit 3 and
2 Exhibit 4, but it was not me who interpreted the
3 guidelines.

4 I'm quite sure they were using the most
5 current guidelines at the time the table was put
6 together, but I can't point to you the particular
7 version or draft, if that's the case, that was used.
8 So I guess I would tend to agree with what you're
9 summarizing but I don't know it.

10 Q. Okay.

11 MS. SEABORN: I guess my problem, Madam
12 Chair, is that we don't have unfortunately an
13 Abitibi-Price forester here to answer questions with
14 respect to these exhibits.

15 I appreciate that Mr. Ross said in his
16 direct testimony that the foresters at Abitibi-Price
17 had provided him with a considerable amount of
18 information which he summarized in the report. I am
19 not trying to quibble about this, but there are some
20 questions that I would like to ask that I think are
21 significant because we certainly, from reviewing it,
22 take a somewhat different view as to the difference
23 between what is meant by a status quo application and
24 an inflexible application of the guidelines. So maybe
25 I will ask the questions and to the extent that Mr.

1 Ross can answer them that will suffice for the moment.

2 MR. COSMAN: Madam Chair, we answered
3 every interrogatory that was put to us and if my friend
4 had wanted she could have put interrogatories with
5 respect to this information, which was very clear on
6 its face as far as the forestry side of it. Mr. Ross
7 as an economist was relying upon the foresters to
8 interpret the guidelines and yet set out how it was
9 done in their schedule.

10 I don't think it is useful use of this
11 Board's time to put to Mr. Ross questions which (a) we
12 know he cannot answer; (b), counsel had the opportunity
13 to put questions to us in advance of this process and
14 didn't do so and chose not to do so for whatever
15 reason. I guess we can hear a list of questions, I
16 don't know if we can answer them or even whether we
17 should at this point in time, go back and try to go
18 through the exercise of getting the people together
19 that we did in terms of -- when we went through the
20 process of answering interrogatories.

21 MADAM CHAIR: Let's hear what the
22 questions are, Ms. Seaborn, and then we will decide
23 where to go after that.

24 MS. SEABORN: I will try and move this as
25 quickly as possible. Thank you, Madam Chair.

1 MADAM CHAIR: And, Mr. Ross, if you don't
2 know, if you can't answer the question simply say that.

3 MR. ROSS: Thank you.

4 MS. SEABORN: Q. Now, Mr. Ross, are you
5 familiar with the policy for the integration of other
6 resource values in timber management? And I believe
7 you alluded to earlier that you had reviewed that
8 policy, although you were not sure you understood all
9 of it but you had looked at it.

10 MR. ROSS: A. The page or so that you
11 referred me to in Panel 1?

12 Q. Yes.

13 A. That's right.

14 MS. SEABORN: And, Madam Chair, that
15 policy is found at 242 of panel MNR's Panel 1 witness
16 statement.

17 MADAM CHAIR: Do we need a copy of that,
18 Ms. Seaborn?

19 MS. SEABORN: Do you have Panel 1 in
20 front of you. I had asked Ms. Devaul to provide
21 MNR's -- if there is a green witness statement around
22 that should be Panel 1.

23 MR. FREIDIN: I have extra copies. In
24 fact I happen to have two. It's unusual for me to have
25 two unmarked copies of everything.

1 MS. BLASTORAH: One unmarked copy of
2 anything is unusual.

3 MS. SEABORN: Mr. Freidin has been
4 carrying that around for some time.

5 Q. Now, this policy, Mr. Ross, it has
6 been my understanding, has been in effect since 1985 as
7 identified in the top right-hand corner and therefore
8 was issued prior to the finalization of the three new
9 provincial guidelines which are the Moose Guidelines,
10 the Fish Habitat Guidelines and the Tourism Guidelines.
11 Would you agree with that?

12 MR. ROSS: A. I don't know. I mean, I
13 understand what you say, then I recognize that all the
14 guidelines are recent so I assume it's true.

15 MR. FREIDIN: What was the date of the
16 fish habitat guidelines being approved?

17 MS. SEABORN: April 1988.

18 MR. FREIDIN: All right. I just raise
19 for whatever it is worth that this is policy has been
20 rescinded and that was the evidence through an answer
21 to an undertaking by Mr. Douglas in Panel No. 1.

22 The evidence was that this policy was
23 rescinded and what takes its place is the area of
24 concern planning process of the timber management --
25 well, the area of concern planning process.

1 MS. SEABORN: That is correct. That is
2 my understanding as well. That policy has been
3 superseded by the the area of concern planning process
4 as described in the Class EA.

5 MR. FREIDIN: Yes. Okay.

6 MS. SEABORN: Q. Now, under Intent you
7 will see that it says:

8 "It is the intent of MNR through
9 implementation of this policy, (1) to
10 increase the amount of timber available
11 by providing opportunities for timber
12 management operations in areas previously
13 identified as reserves and (2), to
14 protect other resource values; e.g.,
15 fisheries, wildlife, habitat, tourism
16 values and to contribute to their
17 management."

18 Now, MNR witnesses have testified to date
19 that the basic objective for developing the new -- one
20 of the objectives for developing new provincial
21 guidelines, at least for fish habitat, was to respond
22 to the objectives that were set out in this policy.

23 Are you aware of that?

24 MR. ROSS: A. I hadn't been, no.

25 Q. Okay. And if we turn to your

1 statement, again Exhibit 3, and we will just look at
2 one example, you will see for trout lakes under Fish,
3 which is the first item for Exhibit 3, that the width
4 of the area of concern that is identified under the
5 status quo application of guidelines is 120 metres,
6 whereas if we go to Exhibit 4 where we find the
7 inflexible application of guidelines for trout lakes
8 the width of the areas of concern are a range of 30 to
9 90 metres based on slope; correct?

10 A. Yes.

11 Q. Now, it appears to me on the face of
12 it that what you have termed inflexible in this report
13 is really a more flexible situation than is found under
14 the former guidelines or under the status quo
15 guidelines?

16 A. I guess I would distinguish between
17 using those words to describe the guidelines and using
18 them to describe the application of the guidelines.

19 I understand Exhibit 3 to be the best
20 judgments of the people at Abitibi-Price as to how the
21 guidelines have currently been implemented in the areas
22 in which they operate. I mean, how they are applied in
23 other words at the current time.

24 I understand Exhibit 4 to be their views
25 as to how the guidelines might be applied in a

1 situation in which they were viewed not as guidelines
2 but as rules and sort of pushed to their upper limit,
3 if you will, in that context.

4 Q. And, Mr. Ross, my concern in this
5 regard in viewing your report was that after hearing
6 MNR's evidence on this matter and having a look at a
7 number of documents, it had always been my
8 understanding that part of the reason for the new
9 guidelines, the most recent guidelines upon which the
10 inflexible application, Exhibit 4, is based was to
11 satisfy some of the concerns of industry that what has
12 been termed the old donut approach be moved away from
13 because that approach tied up too much timber.

14 A. Are you aware of that?

15 A. Well, I'm aware but it in a general
16 way.

17 Q. And did you discuss any of those
18 distinctions with the foresters from Abitibi-Price when
19 you were looking at the difference between the status
20 quo application of guidelines versus the inflexible
21 application of guidelines?

22 A. Well, we may have talked at about the
23 same level we're talking now, but I think I might
24 repeat my distinction between the guidelines and their
25 application. We were really talking here about the

1 flexibility or otherwise of the application of the
2 guidelines and the status quo application of the
3 guidelines. We're not talking about inflexible
4 guidelines, we're talking about guidelines that are
5 applied in different ways.

6 Q. And I'm suggesting that if we take
7 the strictest interpretation of Exhibit 4, the
8 inflexible application and guidelines for fish, then
9 the strictest interpretation is a 90-metre area of
10 concern. If you look at the status quo application of
11 the guideline, the width of area of concern that is
12 identified is 120 metres and in my view -- would you
13 agree with me that the 120-metre reserve would tie up
14 more timber than the 90-metre slope dependent reserve
15 on the face of it?

16 A. I guess on the face of it I will
17 agree with that.

18 Q. Okay.

19 MR. FREIDIN: Just before we leave that,
20 Madam Chair, to make sure the record is complete. The
21 evidence as to the move away from the doughnut was not
22 only to make wood available in cases where you could in
23 fact have a narrower reserve, it was also to in fact
24 provide for the opportunity to in fact have a reserve
25 of greater widths than the donut would have prescribed.

1 MADAM CHAIR: Excuse me, Mr. Freidin,
2 could you just clarify the last part of your comment?

3 MR. FREIDIN: The evidence in Panel No. 1
4 was that with the donut approach you would have the
5 same reserve around every lake regardless of
6 circumstance. There may have been a circumstance where
7 a greater reserve than 120 metres was appropriate, but
8 if just followed the donut approach blindly you would
9 have had an inadequate reserve.

10 The new approach provided the
11 case-by-case analysis so that if it required more than
12 120 you could provide for it, if the circumstances said
13 it could be less than 120, you could make that decision
14 as well.

15 MADAM CHAIR: The maximum reserve size is
16 not 90 metres even though that is with respect to
17 slope, but there might be other circumstances that
18 would increase the width of the reserve beyond 90
19 metres?

20 MR. FREIDIN: Under the Fish Habitat
21 Guidelines that is correct. They are guidelines.

22 MR. MARTEL: The donut was never meant,
23 was it, Mr. Freidin, to be absolute in terms of it
24 couldn't be larger? It wasn't just an application of
25 - one figure? You couldn't go below it at one time, but

1 there was never restriction that you couldn't, let's
2 say for a skyline reserve --

3 MR. FREIDIN: I am talking specifically
4 now in relation to protection of water quality and fish
5 habitat. You always go larger for a different purpose
6 such as skyline reserves, certainly.

7 MS. SEABORN: I think now I would like to
8 ask Mr. Freidin a few questions, but I think I will
9 push on.

10 Q. Now, just following up on this. The
11 most recent version of the guidelines -- or subsequent
12 to the most recent version of the guidelines being
13 filed with the Board, a subsequent exhibit was filed
14 called Exhibit 492 which is a document entitled
15 Training Message, Moose Guidelines, Training Message,
16 Fish Guidelines and that Exhibit was 492.

17 I would like to show you, Mr. Ross, an
18 excerpt from that exhibit and I have copies. (handed)

19 Now, you will see there are a number of
20 issues that have arisen during the course of the
21 hearing as to the interpretation of the guidelines and
22 you will see that MNR has identified an issue with
23 respect to the 30 to 90 metre dimensions and then the
24 question is many companies and districts are
25 encouraging a 60 or 90 metre donut approach.

1 Now, if you look at the last paragraph --

2 MR. COSMAN: Can we know what this is

3 because --

4 MADAM CHAIR: Yes, this is an exhibit
5 previously filed.

6 MR. FREIDIN: I am just wondering
7 whether -- it was an exhibit which was filed, but I am
8 just wondering, my recollection is that there was a
9 draft filed and there was an undertaking that we would
10 provide to you and the Board the final training
11 messages once they were developed and I think we did
12 so.

13 Anyway, I suppose -- let's have the
14 examination on this. If it turns out there is a change
15 it can be brought out in re-examination, so...

16 MS. SEABORN: I think you are right, Mr.
17 Freidin, there was at some point an update to the
18 training message. I'm not sure what the exhibit number
19 was of this. I have the full document if Mr. Cosman
20 wants to look at it which Ms. Devaul has provided me
21 with.

22 MR. COSMAN: I don't know if it will help
23 Mr. Ross or not.

24 MADAM CHAIR: Can you provide us with the
25 exhibit number?

1 MS. SEABORN: Yes, it is Exhibit 492. I
2 don't think we need to mark this separate.

3 MADAM CHAIR: No.

4 MS. SEABORN: It is just an excerpt that
5 I am referring to from Exhibit 492.

6 Q. Now, you will see under Response, the
7 last paragraph, it says that:

8 "Where companies insist on the donut
9 approach, it should be made clear that
10 this is not wood the Crown is precluding
11 from harvest. Furthermore, it is
12 an unnecessary loss of wood and waste
13 unless justified on the basis of some
14 other AOCs values."

15 Now, in light of the policy for
16 integrated resource management that we looked at
17 earlier, would you agree with me that this training
18 message indicates that again MNR is advising the
19 industry that one of the ways to move away -- that one
20 of the intents behind moving away from the donut
21 approach was to set up a system of more flexible
22 reserves and more flexible guidelines rather than
23 making those guidelines more inflexible?

24 MR. COSMAN: I don't know how this
25 witness could answer that, Madam Chair.

1 MR. ROSS: I don't either.

2 MADAM CHAIR: I guess that's the answer,
3 Ms. Seaborn.

4 Mr. Freidin, could you inform the Board
5 tomorrow morning if there is a finalized training
6 message and produce it.

7 MR. FREIDIN: We will make those
8 inquiries.

9 MADAM CHAIR: Thank you.

10 MS. BLASTORAH: Madam Chair, my
11 recollection is that something was marked, I believe,
12 in Panel 10 shortly after this was marked and we will
13 check tonight. I think there may already be an
14 existing exhibit.

15 MS. SEABORN: Q. Now, could you turn,
16 Mr. Ross, to the bundle of interrogatories again, which
17 is Exhibit 1068 and in particular question 6.

18 Now, we had asked in the interrogatory
19 whether industry was consulted by MNR in the
20 development of the MNR's policy for other resource
21 values in timber management. If so, please describe
22 the nature and extent of that participation.

23 The answer refers to active participation
24 by industry in development of tourism guidelines and
25 road and bridge construction guidelines and there was

1 limited consultation on the moose guidelines.

2 Now, the answer is completely
3 irresponsible to the question and can you add anything
4 further with respect to industry's consultation with
5 respect to the development of the policy for
6 integration of other resource values in timber
7 management?

8 MR. ROSS: A. No, I can't.

9 Q. Could you undertake to provide
10 further clarification for us with respect to that
11 response.

12 MR. COSMAN: Madam Chair, I wonder if I
13 might just take this up. I don't know if this is a
14 matter for this panel, this panel is made of, you know,
15 independent consultants whose opinions were sought for
16 the Board.

17 MADAM CHAIR: Will you be having another
18 witness, Mr. Cosman?

19 MR. COSMAN: That's right. We are going
20 to be having a number of industry witnesses including
21 the planning panel, and perhaps the best thing to do is
22 allow me the opportunity to review with it with our
23 associations to see the best way to bring this forward.
24 If my friend wishes to pursue it, we will through her
25 informally and if necessary formally come back to the

1 Board.

2 MADAM CHAIR: Is that agreeable to you,
3 Ms. Seaborn?

4 MS. SEABORN: Yes, that's fine. Thank
5 you, Mr. Cosman.

6 And, Mr. Cosman, just one additional
7 thing with respect to this response is there was no
8 mention of the Fish Habitat Guidelines and it is my
9 understanding that there was consultation with industry
10 with respect to the development of the new fish habitat
11 guidelines and I would appreciate confirmation with
12 respect to those guidelines as the other two provincial
13 ones were mentioned.

14 MR. COSMAN: I will make the same kind of
15 inquire that I have just indicated.

16 MS. SEABORN: Thank you. Madam Chair, I
17 have one area left with respect to some questions on
18 Midway which is contained again in the economic impact
19 frame work, so perhaps it would be appropriate to take
20 a short break at this time before I get into another
21 area.

22 MADAM CHAIR: All right. Why don't we
23 take a 20 minutes break now and then finish off.

24 MS. SEABORN: That's fine. I expect,
25 just for everyone's planning purposes, that I will be

1 20 minutes or so after the break to half an hour at the
2 most. Thank you.

3 ---Recess taken at 3:05 p.m.

4 ---On resuming at 3:30 p.m.

5 MADAM CHAIR: Thank you. Please be
6 seated.

7 MS. SEABORN: Q. Mr. Ross, could you
8 turn to the executive summary of Exhibit 1047, (ii) and
9 paragraph 4 is entitled Scope and Approach.

10 Now, under paragraph 4, the last line
11 before we get to the bullet says:

12 "The study has the following broad scope
13 and approach..."

14 And the second bullet down says:

15 "Using two specific case studies to
16 develop quantitative estimates of the
17 impact of reserves and other cutting
18 restrictions on wood costs."

19 Now, in relation to the Midway approach
20 at page 30 of your report, you describe the differences
21 between the Abitibi-Price and Midway approach and, as I
22 understand it from the earlier evidence and from
23 reading the report, is that the costs that are faced by
24 Midway are a combination of costs due to reserves as
25 with Abitibi-Price as well as those associated with the

1 scattered allocations of timber to Midway; correct?

2 A. Yes.

3 Q. So there are two aspects to the
4 Midway study, unlike the Abitibi-Price study where we
5 are looking at reserves and allocations?

6 A. Yes.

7 Q. Now, if you could turn to the bundle
8 of interrogatories again, Exhibit 1068, which we filed
9 this afternoon and that's MOE question No. 16. This
10 was in relation to the Midway study and we asked for
11 clarification, as did some other parties, I believe, as
12 to where and how this rule of thumb was generated with
13 respect to the 15 per cent of volumes that will be lost
14 to reserves.

15 In the response, I note that you advise
16 that the 15 per cent of volumes was a number used by
17 Midway staff and that it includes lake and creek size
18 timber withdrawals only; is that correct?

19 A. Yes.

20 Q. So in that sense the 15 per cent of
21 volumes lost to reserves would be attributed to
22 application of the Fish Habitat Guidelines?

23 A. And I guess perhaps any tourism type
24 guidelines or outfitter guidelines that might apply as
25 well, I assume.

1 Q. Now, if you could turn over the page
2 to question 17. We asked:

3 "How much merchantable timber in reserves
4 that could have been used by Midway in
5 their sawmill was bypassed as a result of
6 the road network?"

7 And in the response, the second full
8 paragraph you state that:

9 "In the northern boreal portions of the
10 area in which Midway operates, most of
11 the timber being bypassed is not in
12 reserves."

13 So with respect to the northern portion
14 of the area losses would not be attributed to reserves;
15 is that correct?

16 A. They're not -- I have asked a number
17 of people what reserves means and I'm not sure I have
18 every gotten a consistent definition of what reserves
19 means. Let me perhaps try and answer a bit more
20 precisely.

21 The 15 per cent reserve factor that we
22 spoke about a moment ago that was in the previous
23 interrogatory, what I understand that to mean is that's
24 rule of thumb for estimating how much wood within an
25 allocation or within allocated areas of timber will

1 ultimately be withdrawn because it is in areas of
2 concern and various guidelines are applied.

3 In other words, I am using the word
4 reserves in the Midway case study to refer to
5 withdrawals of timber in areas of concern and other
6 things inside the allocations.

7 Q. That's right.

8 A. Okay. So that's not -- most of the
9 timber being bypassed is not in reserves inside
10 allocated areas, instead it is that there are scattered
11 allocations of timber and that timber is being bypassed
12 in the sense that there is an allocation here, an
13 allocation there, but they're not given access to the
14 timber inbetween.

15 Q. That's consistent with my
16 understanding, Mr. Ross, as well, is that you do the
17 allocation first and then after you do the allocation
18 you may within those allocations have to set aside
19 certain portions as a result of the application of
20 guidelines?

21 A. I think --

22 Q. And those portions set aside would be
23 the reserves?

24 A. Okay. I think, though, that
25 certainly the feeling of Midway is that the allocations

1 themselves are being determined and applied by the
2 application of the Moose Habitat Guidelines, whether
3 formally or informally.

4 In other words, the timber that is being
5 allocated being allocated in a way which is intended to
6 leave uncut areas between the allocations to suit the
7 objectives of the moose guidelines. In that sense, it
8 is a bit different than the Abitibi-Price situation
9 where the timber has been allocated in larger blocks
10 and then the guidelines are being applied in a sense
11 within the allocations.

12 Q. Wouldn't that be inconsistent,
13 though, with the planning process for reserves to be
14 done before the allocations are done because that's
15 what you are essentially saying in terms of application
16 of the moose guidelines?

17 A. I don't know the answer and I don't
18 know that anybody calls them reserves. I think this is
19 the nature -- certainly Midway's understanding of what
20 has been going on in the timber allocation process.

21 Q. Just to be clear then. In the
22 context of the Abitibi-Price analysis, you were
23 certainly looking at it from the point of view of there
24 are allocations and then there are reserves within
25 those allocations?

1 A. That's true, yes.

2 Q. In the context of Midway, what you
3 are telling me then is that Midway was not given
4 certain allocations because of application of the moose
5 guidelines as opposed to areas being allocated and
6 reserves being set up within those allocations?

7 A. Well, I think that's what Midway
8 thinks is happening. I don't know what the MNR's
9 description of the process is. I think Midway -- the
10 planning process has gotten to the point where the
11 reserves have been entirely defined within the
12 allocations. They are anticipating that when that
13 process takes place that perhaps 15 per cent of the
14 timber will be withdrawn, but it's a planning
15 assumption or rule of thumb at this point.

16 Q. Could we turn then to Table 5.1 at
17 page 35. In terms of the Midway case study results
18 that you have provided to us, could you give me a
19 breakdown with respect to the percentage increase in
20 road costs as to what percentage increase in road costs
21 were attributed -- are attributable to allocations as
22 opposed to attributable by way of application of timber
23 management guidelines?

24 A. I don't know if I have the
25 information to answer that question. I have the

1 information that I could use to answer a different
2 question, which is: What would the increase in road
3 costs be if one made the assumption that there would be
4 no withdrawals -- that there would no reserves; in
5 other words, other than the 15 per cent reserve factor
6 in the calculation.

7 Q. That would be helpful.

8 A. Okay. My caution I guess is that
9 there have also been reserves in the current five-year
10 operating plan area and the information I don't have is
11 how much -- what has been the extent of reserves in the
12 current five-year plan.

13 So if, for example, they had been 15 per
14 cent of the timber in the allocated areas, then the
15 impact -- the actual impact of reserves may have been
16 nil in a sense; whereas, if there had been much smaller
17 reserves than the old timber management plan had, some
18 of this would be attributable to reserves.

19 Q. Okay.

20 MS. SEABORN: Excuse me one moment.

21 ---Discussion of the record

22 MS. SEABORN: Q. Could you turn, Mr.
23 Ross, to page 31 of your report. Now, as you told us
24 in your evidence-in-chief and in the background section
25 of your report Midway is a specialty sawmiller and, as

1 a result, could only at least in 1988 use 27 per cent
2 of wood harvested from the lands allocated to them and,
3 as a result, Midway enters into certain arrangements in
4 order to recover all the wood within their allocations;
5 correct?

6 A. Yes, substantially all the wood.

7 Q. Okay. And would you be aware that
8 pursuant to the existing Fish Habitat Guidelines there
9 is a provision that allows for selection cutting within
10 areas of concern or reserves so long as it can be
11 demonstrated that fish habitat will be protected?

12 A. Yes.

13 Q. Now, would you agree with me that
14 that provision would be of benefit to a sawmiller such
15 as Midway in that they can selection cut in reserves;
16 without having to harvest and give away pulpwood, they
17 can go in and selection cut without having to enter
18 into these other complicated arrangements in order to
19 dispose of the wood that they can't use themselves?

20 A. Well, this starts to get into sort of
21 forestry -- woodlands management issues that I'm not
22 sure I am competent in, but I guess I would observe
23 whether that statement is true or not depends a lot on
24 whether the road access already exists.

25 If one has to build the roads and are

1 going to take out less wood than would otherwise be the
2 case, then you are into the same conundrum of
3 recovering wood costs -- or, sorry, road costs through
4 less wood. I suspect that Midway does some selection
5 cutting at the present time.

6 Q. And I noted as well at page 31 that
7 Midway's focus is on veneer logs and specialized
8 sawlogs such as hardwood white pine and large jack
9 pine, and it is my information that it would be
10 precisely those sorts of logs that would be appropriate
11 to be taken out in a selection cut within a reserve, of
12 course keeping in mind you could meet the other
13 requirement of the guideline. You would agree with
14 that?

15 A. I assume, and I am not really sure I
16 know it.

17 Q. Okay. I appreciate you're not a
18 forester.

19 A. It is becoming clear.

20 Q. And assuming for the moment that
21 Midway does in fact do some selection cutting in
22 reserves and they could continue to do such selection
23 cutting, would you agree with me that that would be a
24 benefit to Midway?

25 A. If it allows them to use the road

1 network that they have to build to access the wood more
2 efficiently and if it doesn't change the economics of
3 the business to the contractor, I guess the answer has
4 to be yes, but I don't know whether either of those
5 things are true. In particular, recognize that Midway
6 doesn't harvest the wood themselves, it uses
7 contractors to harvest the wood.

8 Q. Okay.

9 A. And in the end they are in an
10 arrangement with the contractors where the contractors
11 will harvest the saw timber and deliver it to Midway
12 and also harvest the pulpwood and in fact smaller jack
13 pine, saw timber and deliver that to other people and
14 for the deal to make sense all around there has got to
15 be something in it for the contractor and there's got
16 to be something in it for Midway, there's got to be
17 something in it for the pulp mills and for the E.B.
18 Eddy sawmill.

19 I don't know whether focusing only on the
20 logs that Midway wants leaves all that intact or not.

21 Q. If we can just turn briefly to the
22 Superior Forest study again which is Exhibit 1035.
23 Now, in the Superior Forest study there is an Appendix
24 III that's found after the copy of the Moose Habitat
25 Guidelines. I'm sorry the page isn't numbered, but it

1 does follow those guidelines. And they provided with
2 their study Appendix III, Stand Listings and Volume
3 Size for Control Blocks, Leave Blocks and Take Blocks.

4 Now, would you be able to provide to us
5 similar information with respect to the Abitibi-Price
6 and Midway case studies that you prepared?

7 A. Presumably, yes. And to say that a
8 little bit differently, I have it. I know the
9 companies have some concerns about confidentiality of
10 some of their data, but I would be surprised if this
11 were included in the data that they have such concerns
12 about.

13 MR. COSMAN: Well, perhaps subject to
14 consideration of that, in which case I will come back
15 to you, Madam Chair, we will see if we can produce it.

16 MADAM CHAIR: Agreeable with you, Ms.
17 Seaborn?

18 MS. SEABORN: Yes, thank you.

19 MR. ROSS: If I can just add, it will not
20 be identical to this data, but it will be summaries of
21 the stands and that sort of thing.

22 MS. SEABORN: And my interest in this of
23 course is that the Superior Forest study does provide
24 considerable more back-up for the conclusions that they
25 come to with respect to the cost of reserves than your

1 study provides, and that's why I am asking for the
2 additional information to verify some of the
3 conclusions that you have come to with respect to your
4 cost analysis.

5 Thank you, Mr. Ross, Mr. Watson. Those
6 are all my questions.

7 MADAM CHAIR: Thank you, Ms. Seaborn.

8 Are we finished for the day?

9 MR. FREIDIN: Too efficient, Madam Chair.

10 MADAM CHAIR: We will start tomorrow
11 morning at 8:30 with Mr. Colborne.

12 Thank you.

13 ---Whereupon the hearing adjourned at 3:50 p.m., to be
14 reconvened on Wednesday, March 29th, 1990 at 8:30
a.m.

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